

AMENDED IN SENATE JUNE 25, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1478**

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**Introduced by Committee on Budget (Blumenfield (Chair), Alejo, Bonilla, Brownley, Buchanan, Butler, Cedillo, Chesbro, Dickinson, Feuer, Gordon, Huffman, Mitchell, Monning, and Swanson)**

January 10, 2012

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~~An act relating to the Budget Act of 2012.~~ *An act to amend Sections 17210, 19970, 100010, 100115, and 100125 of the Education Code, to amend Section 5653.1 of, to add Section 2948 to, and to repeal Article 2 (commencing with Section 2940) of Chapter 13 of Division 3 of, the Fish and Game Code, to amend Sections 33222, 33223, 33225, 33251, 33252, 33253, 33257, 33291, 33292, 35221, and 35231 of, and to repeal and add Section 33294 of, the Food and Agricultural Code, to amend Section 65962.5 of, to repeal Sections 14669.13 and 15819.05 of, to add Article 9.7 (commencing with Section 16428.8) to Chapter 2 of Part 2 of Division 4 of Title 2 of, and to add Chapter 5 (commencing with Section 12894) to Part 2.5 of Division 3 of Title 2 of, the Government Code, to amend Sections 25173.6, 25173.7, 25174, 25185.5, 25200.14, 25201.6, 25202.5, 25244.12, 25244.13, 25244.14, 25244.15, 25244.15.1, 25244.16, 25244.17, 25244.17.1, 25244.17.2, 25244.18, 25244.19, 25244.20, 25244.21, 25244.22, 25244.23, 25269.2, 25299.50.3, 25299.81, 25390.7, 25395.30, 25395.99, 25395.119, 25404, 44299.91, 44392, and 106615 of, to amend the heading of Article 11.9 (commencing with Section 25244.12) of Chapter 6.5 of Division 20 of, to add Sections 25114.5, 25244.01, and 25244.13.1 to, to add Article 11.1 (commencing with Section 25220) to Chapter 6.5 of Division 20 of, to add Chapter 6.86 (commencing with Section 25396) to Division 20 of, to repeal Sections 25117.3, 25117.4, 25149.3, 25244.24, 25356.2,*

25356.3, 25356.4, 25356.5, 25356.6, 25356.7, 25356.8, 25356.9, 25356.10, 57009, and 58004.5 of, to repeal Article 11 (commencing with Section 25220) of Chapter 6.5 of, to repeal Article 6.5 (commencing with Section 25369) of Chapter 6.8 of, to repeal Article 8 (commencing with Section 25395.1) of Chapter 6.8 of, to repeal Chapter 6.85 (commencing with Section 25396) of, to repeal Chapter 6.10 (commencing with Section 25401) of, and to repeal Chapter 6.98 (commencing with Section 25570) of, Division 20 of, the Health and Safety Code, to amend Sections 3258, 5096.255, 5930, 14574, 21155.1, 21159.21, 25740.5, 25744.5, 25746, 25751, 32605, 42474, 42649.2, and 71300 of, to add Sections 5010.6.5, and 5010.7 to, to add Chapter 8.1 (commencing with Section 25710) to Division 15 of, to add and repeal Section 5010.6 of, and to repeal Sections 25742, 25743, 25744, and 25748 of, the Public Resources Code, to amend Section 2851 of, and to add Section 748.5 to, the Public Utilities Code, to amend Section 5155 of, and to add Section 5161 to, the Vehicle Code, to amend Sections 175.5, 13201, 13202, 13207, 13388, and 13860 of, and to add Sections 147.5 and 11913.1 to, the Water Code, to amend Section 17645.40 of the 1992 School Facilities Bond Act (Section 34 of Chapter 552 of the Statutes of 1995), to amend Section 17660.40 of the 1990 School Facilities Bond Act (Section 34 of Chapter 552 of the Statutes of 1995), and to amend Section 17698.20 of the 1988 School Facilities Bond Act (Section 34 of Chapter 552 of the Statutes of 1995), relating to public resources, and making an appropriation therefor, to take effect immediately, bill related to the budget.

## LEGISLATIVE COUNSEL'S DIGEST

AB 1478, as amended, Committee on Budget. ~~Budget Act of 2012.~~  
Public resources.

(1) Existing law establishes the Office of Education and the Environment in the California Environmental Protection Agency to implement the statewide environmental educational program and, in cooperation with the State Department of Education and the State Board of Education, develop and implement a unified education strategy on the environment for elementary and secondary schools in the state.

This bill would establish the office in the Department of Resources Recycling and Recovery instead and make conforming changes.

(2) An existing provision of the California Constitution authorizes the Legislature, at any time after the approval by the voters of a law

*authorizing the issuance of bonded indebtedness, to reduce the amount of the indebtedness authorized by the law to an amount not less than the amount contracted at the time of the reduction.*

*This bill would reduce, by prescribed amounts, the amount of bonded indebtedness authorized in the California Library Construction and Renovation Bond Act of 1988, the Public Education Facilities Bond Act of 1996, the California Park and Recreational Facilities Act of 1984, the California Wildlife, Coastal, and Park Land Conservation Act of 1988, the California Safe Drinking Water Bond Law of 1976, the 1992 School Facilities Bond Act, the 1990 School Facilities Bond Act, and the 1988 School Facilities Bond Act.*

*(3) The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared by contract, and certify the completion of, an environmental impact report on a project, as defined, that it proposes to carry out or approve that may have a significant effect on the environment, or to adopt a negative declaration if it finds that the project will not have that effect. CEQA exempts from its provisions, among other things, certain types of ministerial projects proposed to be carried out or approved by public agencies, and emergency repairs to public service facilities necessary to maintain service.*

*Existing law designates the issuance of permits to operate vacuum or suction dredge equipment by the Department of Fish and Game to be a project under CEQA, and suspends the issuance of those permits until the department has completed a court-ordered environmental impact report for the project, as specified. Existing law prohibits the use of any vacuum or suction dredge equipment in any river, stream, or lake, for instream mining purposes, until the earlier of the following dates: June 30, 2016, or when the Director of Fish and Game makes a prescribed certification to the Secretary of State, including certifying that new regulations fully mitigate all identified significant environmental impacts and that a fee structure is in place that will fully cover all costs to the department related to the administration of the program.*

*This bill would repeal the June 30, 2016 date, and, instead, make the moratorium operative until the director makes that certification to the secretary. The bill would, in order to facilitate the making of that certification, require the department to consult with other agencies as it determines to be necessary, and, on or before April 1, 2013, prepare and submit to the Legislature a report with recommendations on*

*statutory changes or authorizations necessary to develop the required suction dredge regulations, including, but not limited to, recommendations relating to the mitigation of all identified significant environmental impacts and a fee structure that will fully cover all program costs.*

*(4) Existing law establishes the Salton Sea Restoration Council as a state agency in the Natural Resources Agency to oversee the restoration of the Salton Sea.*

*This bill would, on January 1, 2013, eliminate the council.*

*(5) Existing law, the Milk and Milk Products Act of 1947, regulates the production of milk and milk products in this state and requires a permit from the Secretary of Food and Agriculture or from the approved milk inspection service maintained by the county designated by the secretary for each dairy farm in order to engage in the business of producing market milk, as defined. Existing law authorizes inspection fees to be levied by the county or, where there is no approved milk inspection service for the county, the secretary. A violation of any provision regulating the production of milk or milk products is a crime.*

*This bill would expand the permitting and inspection fee requirements to persons engaged in the business of producing manufacturing milk, as provided. The bill would revise the method under which the secretary assesses inspection fees, require the money collected to be placed into the Department of Food and Agriculture Fund, which may be expended upon appropriation by the Legislature, and require the secretary to establish plan review fees for sanitary design and construction review activities relating to dairy farms. Because this bill would expand the scope of a crime, it would create a state-mandated local program.*

*(6) Existing law requires a license from the secretary for each separate milk products plant or place of business dealing in, receiving, manufacturing, freezing, or processing milk, or any milk product, or manufacturing, freezing, or processing imitation ice cream or imitation ice milk.*

*This bill would raise the license fees for semifrozen milk product plants, limited manufacturing permits issued to hotels, restaurants, or boardinghouses, and butter testers, samplers and weighers, technicians, pasteurizers, and graders. The bill would also include related legislative findings.*

*(7) Existing law authorizes the Director of General Services to enter into an agreement to lease-purchase finance or lease with an option to purchase, with an initial option purchase price that exceeds \$2,000,000,*

*for the purpose of providing a specified amount of square footage of office, warehouse, parking, and related facilities to consolidate the operations of state agencies in Long Beach. Existing law authorizes the State Public Works Board to issue revenue bonds, negotiable notes, or negotiable bond anticipation notes to finance the acquisition of these facilities.*

*This bill would delete this provision.*

*(8) Existing law authorizes the State Public Works Board to issue revenue bonds, negotiable notes, or negotiable bond anticipation notes to finance specified facilities pursuant to a Riverside/San Bernardino Regional Facilities Study.*

*This bill would delete this provision.*

*(9) Existing law establishes until July 1, 2014, the School District Account in the Underground Storage Tank Cleanup Fund and transfers in the 2009–10, 2010–11, and 2011–12 fiscal years \$10,000,000 per year from the fund to the account for payment of claims filed by a school district that takes corrective actions to clean up an unauthorized release from a petroleum underground storage tank.*

*This bill would extend the provisions establishing the School District Account from July 1, 2014, until January 1, 2016. The bill would require that funds in the School District Account not expended in a fiscal year remain in the School District Account, and that any funds remaining in the account on January 1, 2016, revert to the Underground Tank Cleanup Fund. The bill would repeal provisions specific to encumbered funds that are in the School District Account on July 1, 2012.*

*(10) Existing law provides for the establishment of the Underground Storage Tank Cleanup Fund and associated authority, until January 1, 2016, to pay for various costs of corrective action in regard to unauthorized releases of petroleum from underground storage tanks. Existing law provides that the repeal of the fund and associated authority does not terminate the filing and payment of claims against that fund until the moneys are exhausted.*

*This bill would add specified claims for corrective action filed by a school district to those claims that can be filed and paid until the Underground Storage Tank Cleanup Fund moneys are exhausted.*

*(11) Existing law requires an owner, lessor, or lessee who knows of or has probable cause to believe that a significant disposal of hazardous waste has occurred on, under, or into land or that the land is within 2,000 feet of a significant disposal of hazardous waste and who intends to construct or allow to be constructed on the land a building or*

*structure for specified uses to apply with DTSC to determine whether the land is to be designated as a hazardous waste property or a border zone property. Existing law authorizes a person to enter into an agreement with DTSC providing for the imposition of land use restrictions on the land. Existing law restricts the use of land if the land has been designated as a hazardous waste property or a border zone property. Existing law authorizes DTSC to grant a variance from the land use restrictions.*

*This bill would repeal the above provisions, but DTSC would retain the authority to grant a variance from the land use restrictions imposed pursuant to the repealed provisions. DTSC would also retain the authority to enter into an agreement with a property owner providing for restricting specific uses of the property.*

*(12) The California Expedited Remedial Action Reform Act of 1994 requires DTSC, upon the request of a responsible party, to have a site remediated pursuant to that act. That act authorizes the use of land use control as a part of the remedial plan for the site. That act authorizes DTSC to modify the land use control under specified conditions.*

*This bill would repeal that act. The bill would provide that the requirements of the act continue to apply to sites selected for remediation pursuant to the act before the effective date of this measure.*

*(13) Existing law establishes the Hazardous Substance Cleanup Arbitration Panel in the Office of Environmental Health Hazard Assessment and authorizes a responsible party to request arbitration before the panel, in lieu of a judicial process, for the purposes of apportioning liability for the costs of removal and remedial actions incurred in response to a release or threatened release of a hazardous substance into the environment.*

*This bill would repeal the panel and the arbitration process.*

*(14) Existing law authorizes a private site management team, upon the approval of DTSC, to conduct an investigation of potential hazardous substances release sites and to prepare a remedial design for the implementation of a response plan for a release site.*

*This bill would repeal these provisions.*

*(15) Existing law establishes the abandoned site program and requires DTSC to develop protocols and procedures for conducting an abandoned site survey of rural unsurveyed counties.*

*This bill would repeal that program.*

*(16) The California Land Environmental Restoration and Reuse Act authorizes a local government to implement a program to require the*

owner of property that may be affected by a hazardous material release, or threat of a release, to undertake remedial action on the property.

*This bill would repeal the act.*

(17) Existing law, the Hazardous Waste Reduction, Recycling, and Treatment Research and Demonstration Act of 1985, requires DTSC to establish a Hazardous Waste Technology, Research, Development, and Demonstration Program, consisting of specified elements.

*This bill would provide that DTSC's duty to implement that act is contingent upon, and limited to, the availability of funding, except as specified.*

(18) The existing Hazardous Waste Source Reduction and Management Review Act of 1989 requires DTSC to establish a program for hazardous waste source reduction and provides for the creation and nonoperation of the California Source Reduction Advisory Committee. The act requires DTSC to establish, with regard to source reduction, various programs, including a technical and research assistance program, a technical assistance and outreach program, and a California Green Business Program.

*This bill would rename the act the Pollution Prevention and Hazardous Waste Source Reduction and Management Review Act (act) and would instead provide for the creation of the California Pollution Prevention Advisory Committee, with specified membership and duties. The bill would delete the requirement that DTSC establish those source reduction technical assistance, research, and outreach programs and would instead authorize DTSC to establish a technical and research program to assist businesses in identifying and applying pollution prevention methods, to establish a technical assistance and outreach program to promote implementation of model pollution prevention measures for priority business categories, and to provide pollution prevention and training resources. The bill would also make discretionary the development of the California Green Business Program.*

*This bill would provide that DTSC's duty to implement the act is contingent upon, and is limited to, the availability of funding, except as provided with regard to the requirements imposed upon generators.*

(19) DTSC is required, under the act, to select at least 2 categories of generators every 2 years, for specified enforcement activities, and is authorized to request, from any generator subject to the act, a copy of the generator's source reduction evaluation review and plan. A

*generator is required to provide the review and plan to DTSC or unified program agency, upon request.*

*The bill would delete the requirements that DTSC select at least 2 categories of generators every 2 years for those specified enforcement activities.*

*(20) The act requires DTSC to prepare a draft work plan once every 2 years, with specified information.*

*This bill would instead authorize DTSC to prepare a work plan on a periodic basis, and would revise the information included in the work plan.*

*(21) Existing law requires DTSC to develop a low-cost voluntary program to reduce the generation of hazardous waste by large businesses.*

*This bill would repeal that requirement. The bill would also make conforming and technical changes.*

*(22) The Environmental Quality Assessment Act of 1986 requires the Director of Toxic Substances Control to develop and adopt by regulation criteria for a voluntary registration of environmental assessors.*

*This bill would repeal the act and make conforming changes.*

*(23) Existing law defines the term “phase I environmental assessment” for purposes of the provisions requiring the preparation of a phase I environmental assessment before the acquisition of a schoolsite and specifies the information that a phase I environmental assessment may include.*

*This bill would revise the definition of a phase I environmental assessment to require the assessment to meet the current requirements adopted by the American Society for Testing and Materials (ASTM) for Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process or certain federal regulations. The bill would impose a state-mandated local program by imposing new duties upon local agencies.*

*(24) Existing law, the California Global Warming Solutions Act of 2006, designates the State Air Resources Board (state board) as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases. The state board is required to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions level in 1990 to be achieved by 2020, and to adopt rules and regulations in an open public process to achieve the maximum, technologically feasible, and cost-effective greenhouse gas*



*emissions reductions. The act authorizes the state board to include use of market-based compliance mechanisms. The act authorizes the state board to adopt a schedule of fees to be paid by the sources of greenhouse gas emissions regulated pursuant to the act, and requires the revenues collected pursuant to that fee schedule be deposited into the Air Pollution Control Fund and be available, upon appropriation by the Legislature, for the purposes of carrying out the act.*

*This bill would create the Greenhouse Gas Reduction Fund as a special fund in the State Treasury and would require any money collected by the state board from the auction or sale of allowances pursuant to a market-based compliance mechanism to be deposited into the fund and available for appropriation by the Legislature. The bill would require a state agency, prior to expending any money appropriated to it by the Legislature from the fund, to prepare a record consisting of a description of proposed expenditures and of how they will further the regulatory purposes of the Global Warming Solutions Act of 2006, of how they will achieve specified greenhouse gas emission reductions, how the agency considered other objectives of that act, and how the agency will document expenditure results. The bill would declare that these provisions do not amend the act or the authority of the state board to adopt and implement a fee pursuant to the act, and would declare expenditures of moneys from the fund severable, as specified.*

*This bill would require the Department of Finance, on or before January 10, 2013, to submit a proposed bill to the Legislature that provides a detailed spending plan for the expenditure of moneys from the Greenhouse Gas Reduction Fund, as specified, if the Legislature does not pass a bill, on or before August 31, 2012, that, among other things, specifies a process for the establishment of a long-term spending strategy for these funds. The bill would establish a Cost of Implementation Account in the Air Pollution Control Fund and require fees collected from sources of greenhouse gas emissions to be deposited into this account and available upon appropriation by the Legislature for purposes of carrying out the California Global Warming Solutions Act of 2006.*

*(25) Under existing law, the state board is required to consult with other states, and the federal government, and other nations to identify the most effective strategies and methods to, among other things, reduce greenhouse gases.*

*This bill would impose conditions on nongovernmental entities created to assist the state board in the implementation of the Global Warming Solutions Act of 2006. It would also impose limitations on any link, as defined, between the state and another state, province, or country for purposes of a market-based compliance mechanism, by, among other things, prohibiting any state agency, including the state board, from taking any action to create such a link unless the state agency notifies the Governor, and the Governor issues specified written findings on the proposed link, that consider the advice of the Attorney General. The bill would require the state board to give notice to the Joint Legislative Budget Committee before undertaking expenditures over \$150,000 connected with a specified nonprofit corporation involved in administering the extraterritorial aspects of the state's greenhouse gas reduction program. It would also require the California officers on the board of that nonprofit corporation to report every 6 months to the Joint Legislative Budget Committee on certain actions of the corporation.*

*(26) Under the Public Utilities Act, the Public Utilities Commission (PUC) has regulatory jurisdiction over public utilities, including electrical corporations. A violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the PUC is a crime. The California Global Warming Solutions Act of 2006 and its implementing regulations provide for the direct allocation of greenhouse gas allowances to electrical corporations.*

*This bill would authorize the PUC to allocate, for specified clean energy programs, up to 15% of the revenues received by electrical corporations as a result of that allocation of allowances and would require the PUC to direct the balance of those revenues to be credited directly to the residential, small business, and emissions-intensive trade-exposed retail customers of the electrical corporations, as specified. The bill would also require the PUC to require each electrical corporation to adopt a customer outreach plan in regard to the crediting of those allowance revenues, as specified. Because a violation of this requirement is a crime, this bill would impose a state-mandated local program.*

*(27) Existing law, the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, approved by the voters as Proposition 1B at the November 7, 2006, general election, authorizes the issuance of \$19.925 billion of general obligation bonds for specified purposes, including schoolbus retrofit and replacement purposes.*

*Existing law specifies the responsibilities of various agencies with regard to implementing the bond act. Existing law also establishes various programs for the reduction of vehicular air pollution, including the Lower-Emission School Bus Program adopted by the State Air Resources Board. Existing law appropriates funds to the board and requires the board to allocate these bond funds in specified ways, including funding local air quality management districts.*

*This bill would require the bond funds to be transferred by January 1, 2013, if a local air district's funds, including accrued interest, are not committed by an executed contract, as reported to the board, by June 30, 2012, as provided. The bill would require the local air district and the board to, by September 30, 2012, establish a list of potential local air districts that can be the recipient of the transferred funds, with priority given to districts with the most polluting school buses and with the greatest need for school bus funding.*

*The bill would require each allocation of funding made by the board to a local air district to include enough funding for at least one project to be implemented pursuant to the Lower-Emission School Bus Program.*

*The bill would require all funds allocated by the board to a local air district to be expended by June 30, 2014, and would require all funds not expended by that date to be returned to the board.*

*(28) Existing law prohibits the Division of Oil, Gas, and Geothermal Resources (DOGGR) from expending, through the 2011–12 fiscal year, more than \$2,000,000 in any one fiscal year for the purpose of hazardous or idle-deserted wells. The division is prohibited from expending, commencing with the 2012–13 fiscal year, more than \$1,000,000 in any one fiscal year for the purpose of hazardous or idle-deserted wells.*

*This bill, instead, would authorize DOGGR to expend, commencing on July 1, 2008, up to \$2,000,000 in any one fiscal year through the 2014–15 fiscal year, and up to \$1,000,000 commencing with the 2015–16 fiscal year.*

*(29) Existing law establishes the State Parks and Recreation Fund into which are deposited fees, rents, and other returns for use of the state parks, and moneys in the fund are available for expenditure for state park planning, acquisition, and development projects, operation of the state park system, and resource and property management and protection, when appropriated by the Legislature.*

*This bill would require the Department of Parks and Recreation (DPR) to develop a revenue generation program as an essential*

*component of a long-term sustainable park funding strategy, in accordance with prescribed requirements. The bill would require that all revenues generated by the revenue program developed pursuant to the bill be deposited into the California State Park Enterprise Fund, which the bill would create. The bill would make moneys in the fund available to the department for expenditure, upon appropriation by the Legislature, to be used for specified purposes relating to revenue generating activities by specified park districts and DPR. The bill would require DPR to establish a revolving loan program and prepare guidelines for park districts to apply for funds available under the program, as prescribed.*

*The bill would require that the sum of \$3,000,000, unexpended and available to DPR from the California Clean Water, Clean Air Safe Neighborhood Parks, and Coastal Protection Fund, and the sum of \$10,000,000 from the unexpended balance of specified bond funds made available to DPR under the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, be transferred and deposited into the California State Park Enterprise Fund, and would authorize the expenditure of those funds, upon appropriation by the Legislature, for the purposes of the revenue generation program.*

*(30) Existing law authorizes DPR to collect fees, rents, and other returns for the use of any state park system area, in amounts determined by DPR. Existing law requires that all revenues received by DPR during each fiscal year be paid into the State Treasury to the credit of the State Parks and Recreation Fund, and requires that those funds be available, with specified exceptions, for state park planning, acquisition, and development projects, operation of the state park system, and resource and property management and protection, when appropriated by the Legislature.*

*This bill would create the State Parks Revenue Incentive Subaccount within the State Parks and Recreation Fund and would require the Controller to annually transfer \$15,340,000 from the State Parks and Recreation Fund into the subaccount. The bill would continuously appropriate the money in the subaccount to DPR to create incentives for projects that are consistent with the mission of DPR and that generate revenue and would prohibit DPR from expending more than \$11,000,000 annually from the subaccount to administer, protect, develop, and interpret the property under its jurisdiction. The bill would*

*require the Office of State Audits and Evaluations to review the activities funded from the subaccount.*

*The bill would require the revenue generated from projects funded by the subaccount to be deposited in the subaccount and would continuously appropriate that revenue for expenditure by DPR, of which at least 50% of the revenue would be required to be expended in the district of DPR that earned the revenue.*

*The bill would provide that the funds in the subaccount are available for encumbrance and expenditure until June 30, 2014, and for liquidation until June 30, 2016. The bill would make the provision establishing the subaccount inoperative on June 30, 2016, and would repeal the provision on January 1, 2017. The bill would require the Controller, on July 1, 2016, to transfer any unexpended funds remaining in the subaccount to the State Parks and Recreation Fund.*

*(31) Existing law authorizes the Department of Motor Vehicles (DMV) to issue specialty license plates, including environmental license plates and specified special environmental design license plates. The department is required to charge specified fees for certain services related to the issuance of those plates.*

*This bill would additionally authorize DMV, in consultation with DPR, to design and make available for issuance special state parks environmental license plates bearing a full-plate graphic design depicting a California redwood tree, as specified, upon payment of an additional fee by a person applying for the special plate.*

*(32) Existing law continuously appropriates state and federal funds in the State Water Pollution Control Revolving Fund to the State Water Resources Control Board for loans and other financial assistance for the construction of publicly owned treatment works by a municipality, the implementation of a management program, the development and implementation of a conservation and management plan, and other related purposes in accordance with the federal Clean Water Act and the Porter-Cologne Water Quality Control Act.*

*This bill would state the intent of the Legislature that the State Water Resources Control Board make loans to DPR of up to \$10,000,000 each fiscal year until June 30, 2016, from the State Water Pollution Control Revolving Fund for eligible projects associated with water, wastewater, and septic systems, and other water-related projects.*

*(33) Existing law requires moneys deposited to the credit of the Motor Vehicle Fuel Account in the Transportation Tax Fund to be transferred monthly to the Off-Highway Vehicle Trust Fund in an amount*

*attributable to taxes imposed upon distributions of motor vehicle fuel used in the operation of motor vehicles off highway. The Off-Highway Vehicle Trust Fund is administered by DPR, and moneys in the fund are available, upon appropriation, to the department.*

*This bill would require the Controller to transfer the sum of \$21,000,000 on July 1, 2012, to the Department of Parks and Recreation Fund from moneys in the Motor Vehicle Fuel Account that would otherwise be deposited into the Off-Highway Motor Vehicle Fund.*

*(34) The Reliable Electric Service Investments Act required the PUC to require the state's 3 largest electrical corporations, until January 1, 2012, to identify a separate electrical rate component, commonly referred to as the "public goods charge," to collect specified amounts to fund energy efficiency, renewable energy, and research, development, and demonstration programs that enhance system reliability and provide in-state benefits, including the California Solar Initiative. An existing decision of the PUC institutes an Electric Program Investment Charge (EPIC), subject to refund, to fund renewable energy and research, development, and demonstration programs.*

*This bill would create in the State Treasury the Electric Program Investment Charge Fund to be administered by the State Energy Resources Conservation and Development Commission (Energy Commission). The bill would require moneys received by the PUC for those EPIC programs the PUC has determined should be administered by the Energy Commission to be forwarded by the PUC to the Energy Commission at least quarterly for deposit in the fund, as specified. This bill would revise language regarding funding for the California Solar Initiative to conform with the termination of the "public goods charge."*

*(35) Existing law establishes the Renewable Energy Resources Program for the purposes of optimizing public investment and ensuring the most cost-effective and efficient investment in renewable energy resources. Existing law establishes the Renewable Resource Trust Fund, and upon appropriation by the Legislature in the annual Budget Act, moneys in the fund may be expended for the administration of the program and state expenditures associated with an accounting system. The remaining moneys in the fund are deposited in various accounts within the fund, and those moneys and accounts are continuously appropriated to the commission to implement the program. Existing law requires the Energy Commission to administer the program.*

*This bill would revise and recast the program to conform these provisions with the termination of the public goods charge and, except*

*for the Emerging Renewable Resources Account, would eliminate the accounts within the fund. The bill would continuously appropriate the money in the Emerging Renewable Resources Account to the Energy Commission to close out the award of incentives for emerging technologies and consumer education activities, and to fund local government renewable energy planning projects, as specified.*

*(36) Existing law establishes the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy, and prescribes the functions, duties, and membership of the conservancy. Existing law requires that the governing board of the conservancy consist of 13 voting members and 7 nonvoting members, and requires that the voting members include 2 members of the board of directors of the San Gabriel Valley Council of Governments, one of whom shall be a mayor or city council member of a city bordering along the San Gabriel River, and one of whom shall be a mayor or a city council member of a city bordering the San Gabriel Mountains area. Existing law further requires that one member be appointed by a majority of the membership of that board of directors, and one member be appointed by the Senate Committee on Rules from a list of 2 or more potential members submitted by the board of directors.*

*This bill would authorize the Senate Committee on Rules, if the San Gabriel Valley Council of Governments fails to provide to the Senate Committee on Rules a list of 2 or more potential members at least 30 days prior to the date a current appointee's term of office ends, to appoint a mayor or city council member of a city bordering along the San Gabriel River or the San Gabriel Mountains, or a member of the public who resides within the territory of the conservancy.*

*(37) Existing law, the California Beverage Container Recycling and Litter Reduction Act (act), requires a distributor to pay a redemption payment no later than the 2nd month following the sale of a beverage container; between February 1, 2010, and June 30, 2012, and, after that date, to make that payment no later than the 3rd month following the sale. Existing law requires the payments to be made to the Department of Resources Recycling and Recovery (CalRecycle), which is required to deposit those amounts in the California Beverage Container Recycling Fund. Under existing law, the money in the fund is continuously appropriated to CalRecycle. A violation of the act is a crime.*

*This bill would instead require, as of July 1, 2012, that the payment be made no later than the last day of the month following the sale,*

thereby imposing a state-mandated local program by changing the definition of a crime.

(38) *The Electronic Waste Recycling Act of 2003 requires a retailer selling a covered electronic device in this state to collect an electronic waste recycling fee and to transmit the fee to CalRecycle. Existing law provides for the administration of the act by both CalRecycle and DTSC and authorizes CalRecycle to administratively impose civil liability for each sale of a covered electronic device for which a covered electronic waste recycling fee has not been paid and against manufacturers for failure to comply with the act. The fines and penalties collected under the act are required to be deposited in the Electronic Waste Penalty Subaccount, and CalRecycle and the DTSC are authorized to expend the fines and penalties deposited in the subaccount, upon appropriation by the Legislature. CalRecycle is required to make electronic waste recovery payments directly to an authorized collector or to a covered electronic waste recycler that meets specified eligibility requirements for payment to an authorized collector and to make electronic waste recycling payments to a covered electronic waste recycler.*

*This bill would authorize CalRecycle to administratively impose civil liability against a person who makes a false statement or representation in a document filed, submitted, maintained, or used for purposes of compliance with the act. The bill would authorize CalRecycle to revoke the approval or deny the renewal application of an authorized collector or covered electronic waste recycler that makes a false statement or representation, and to deny an application for approval or renewal from an authorized collector or covered electronic waste recycler that, or an individual identified in the application who, has a history demonstrating a pattern of operation in conflict with the act. The bill would require a person challenging certain regulatory actions under the act, or an approved covered electronic waste recycler challenging the denial or adjustment of an electronic waste recovery payment or electronic waste recycling payment, to first exhaust all administrative remedies by filing with CalRecycle a timely administrative appeal, in accordance with the regulations adopted to implement the act.*

(39) *Existing law requires a business that generates more than 4 cubic yards of commercial solid waste per week to arrange for recycling services, as prescribed.*

*This bill would instead require a business that generates 4 cubic yards or more of commercial solid waste per week to arrange for the recycling services.*



(40) Under existing law, the State Water Resources Control Board and the 9 California regional water quality control boards prescribe waste discharge requirements in accordance with the federal national pollutant discharge elimination system (NPDES) permit program established by the federal Clean Water Act and the Porter-Cologne Water Quality Control Act (state act). The state act requires regional boards to consist of 9 members appointed by the Governor, one for each of 6 descriptions of qualifications enumerated in the state act and 3 not specifically associated with any of those enumerated qualifications. The state act disqualifies a person from being a member of the state board or a regional board if that person receives or has received during the previous 2 years a significant portion of his or her income directly or indirectly from a person subject to, or applicants for discharge permits pursuant to, the NPDES requirements.

This bill would revise the state act to establish regional boards of 7 members each, as specified, to be appointed by the Governor. This bill would also require the terms of office for members of each regional board to be staggered and expire in accordance with a prescribed schedule. This bill would, under specified conditions, provide that a person is not disqualified from being a member of a regional board if that person receives or has received during the previous 2 years income directly or indirectly from a person who has been issued a discharge permit by the state board or a regional board other than the one of which he or she is a member.

(41) The state act prohibits a member of the state board or a regional board from participating in specified board actions that involve the board member or any waste discharger with which the board member is connected as a director, officer, or employee, or in which the board member has a financial interest within the meaning of the Political Reform Act of 1974.

This bill would delete the provision prohibiting a board member from participating in actions that involve the member or a waste discharger with which the member is connected. The bill would specify that the limitation on a board member's financial interest applies only to a disqualifying financial interest within the meaning of the Political Reform Act of 1974.

(42) Under existing law, costs of the state water project incurred for the enhancement of fish and wildlife or for the development of public recreation are nonreimbursable from prices, rates, or charges for water or power. Existing law states the intent of the Legislature to appropriate

money from the General Fund to reimburse those costs in connection with the state water project, as prescribed.

Existing law establishes the Harbors and Watercraft Revolving Fund and requires all money received by the Department of Boating and Waterways to be credited to this fund. Under existing law, fees for the issuance and renewal of a certification of numbering of a vessel by DMV are also deposited into the Harbors and Watercraft Revolving Fund and the moneys from these fees are continuously appropriated to the Department of Motor Vehicles to administer the registration program and to the Department of Boating and Waterways, as prescribed. Existing law also transfers money deposited to the credit of the Motor Vehicle Fuel Account to the Harbors and Watercraft Revolving Fund, for expenditure, as prescribed. Under existing law, all money in the fund is also available, upon appropriation, to the Department of Boating and Waterways, DPR, the Department of Fish and Game, the Department of Food and Agriculture, and the State Water Resources Control Board for, among other things, boating-related facility development, addressing boating safety programs, boating-related spread of invasive species, and regulatory activities.

This bill would, on July 1, 2012, and each July 1 thereafter, transfer \$7,500,000 from the General Fund portion of the Harbors and Watercraft Revolving Fund to the Davis-Dolwig Account (account), which this bill would establish in the California Water Resources Development Bond Fund. This bill would, for the purposes of reimbursing costs of the State Water Resources Development System incurred for recreation and the enhancement of fish and wildlife, continuously appropriate \$7,500,000 from the account to the Department of Water Resources (DWR) and require any amount in the account in excess of \$20,000,000 on June 30 of each year to be transferred back to the Harbors and Watercraft Revolving Fund. This bill would also transfer \$2,500,000 from the General Fund portion of the Harbors and Watercraft Revolving Fund to the account and continuously appropriate \$2,500,000 from the account to DWR for the payment of state recreation and fish and wildlife enhancement costs incurred on or before December 31, 2011, and would make this transfer and appropriation inoperative upon certification of full payment of these costs by the Director of Finance. This bill would require the DWR to provide, as part of the annual Governor's budget process, details of the account balance and expenditures from the account. This bill would provide that funds made available to the DWR in the account fulfill the

*legislative intent to provide funds for fish and wildlife enhancements and recreation.*

*(43) Existing law authorizes the Governor, in certain circumstances, to direct the Controller to make transfers of money from any special funds and other accounts to the General Cash Revolving Fund.*

*This bill would authorize the Controller to use the Davis-Dolwig Account for cash flow loans to the General Fund in accordance with specified provisions.*

*(44) Existing law requires the department to prepare and submit annually, as prescribed, to the chairpersons of the fiscal committees of the Legislature a report with regard to the budget for the State Water Resources Development System.*

*This bill would require the department, at least 60 days prior to the final approval of the renewal or extension of a long-term water supply contract, to present, at an informational hearing before specified committees of the Legislature, the details of the terms and conditions of the contract and how they serve as a template for the remaining long-term water supply contracts.*

*(45) Existing law establishes the Public Utilities Reimbursement Account into which is deposited registration fees collected from electric service providers and annual fees paid by every electrical, gas, telephone, telegraph, water, sewer system, and heat corporation and every other public utility providing service directly to customers or subscribers and subject to the jurisdiction of the commission other than a railroad.*

*The bill would appropriate \$139,000 from the Public Utilities Reimbursement Account to the Office of Environmental Health Hazard Assessment for staffing to perform activities related to identifying and determining inhalation standards for certain constituents of biomethane injected into a common carrier pipeline.*

*(46) The bill would appropriate \$1,000 from the State Parks and Recreation Fund to DPR for administrative costs.*

*(47) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.*

*With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains*

*costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.*

*(48) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.*

*This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.*

*Vote: majority. Appropriation: no-yes. Fiscal committee: no-yes. State-mandated local program: no-yes.*

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 17210 of the Education Code is amended*  
2     *to read:*

3     17210. As used in this article, the following terms have the  
4     following meanings:

5     (a) “Administering agency” means any agency designated  
6     pursuant to Section 25502 of the Health and Safety Code.

7     (b) “Environmental assessor” means ~~a class II~~ *an* environmental  
8     assessor registered by the Office of Environmental Health Hazard  
9     Assessment pursuant to Chapter 6.98 (commencing with Section  
10    25570) of Division 20 of the Health and Safety Code, a professional  
11    engineer registered *as defined* in this state, a geologist registered  
12    in this state, a certified engineering geologist registered in this  
13    state, or a licensed hazardous substance contractor certified  
14    pursuant to Chapter 9 (commencing with Section 7000) 312.10 of  
15    Division 3 Title 40 of the Business and Professions Code. A  
16    licensed hazardous substance contractor shall hold the equivalent  
17    Code of a degree from an accredited public or private college or  
18    university or from a private postsecondary educational institution  
19    approved by the Bureau for Private Postsecondary and Vocational  
20    Education with at least 60 units in environmental, biological,  
21    chemical, physical, or soil science; engineering; geology;  
22    environmental or public health; or a directly related science field.  
23    In addition, any person who conducts phase I environmental  
24    assessments shall have at least two years’ experience in the  
25    preparation of those assessments and any person who conducts a  
26    preliminary endangerment assessment shall have at least three  
27    years’ experience in conducting those assessments. *Federal*  
28    *Regulations.*

(c) “Handle” has the meaning the term is given in Article 1 (commencing with Section 25500) of Chapter 6.95 of Division 20 of the Health and Safety Code.

(d) “Hazardous air emissions” means emissions into the ambient air of air contaminants that have been identified as a toxic air contaminant by the State Air Resources Board or by the air pollution control officer for the jurisdiction in which the project is located. As determined by the air pollution control officer, hazardous air emissions also means emissions into the ambient air from any substance identified in subdivisions (a) to (f), inclusive, of Section 44321 of the Health and Safety Code.

(e) “Hazardous material” has the meaning the term is given in subdivision (d) of Section 25260 of the Health and Safety Code.

(f) “Operation and maintenance,” “removal action work plan,” “respond,” “response,” “response action,” and “site” have the meanings those terms are given in Article 2 (commencing with Section 25310) of the state act.

(g) “Phase I environmental assessment” means a preliminary assessment of a property to determine whether there has been or may have been a release of a hazardous material, or whether a naturally occurring hazardous material is present, based on reasonably available information about the property and the area in its vicinity. A phase I environmental assessment ~~may include, but is not limited to, a review of public and private records of current and historical land uses, prior releases of a hazardous material, data base searches, review of relevant files of federal, state, and local agencies, visual and other surveys of~~ *shall meet* the property, review of historical aerial photographs of the property and the area in its vicinity, interviews with *most* current and previous owners and operators, and review of regulatory correspondence and environmental reports. Sampling or testing is not required as part of the phase I environmental assessment. A phase I environmental assessment conducted pursuant to the requirements adopted by the American Society for Testing and Materials (ASTM) for ~~due diligence~~ *Standard Practice* for commercial real estate transactions and that includes a review *Environmental Site Assessments: Phase I Environmental Site Assessment Process* or *meet the requirements* of ~~all reasonably available records and data bases regarding current and prior gas~~ *Part 312 (commencing with Section 312.1) of Title 40 of the Code*

1 of Federal Regulations. That ASTM Standard Practice for  
2 Environmental Site Assessments ~~or oil wells and naturally occurring~~  
3 ~~hazardous materials located on the site or located where they could~~  
4 ~~potentially effect~~ requirements of Part 312 (commencing with  
5 Section 312.1) of Title 40 of the site, satisfies Code of Federal  
6 Regulations shall satisfy the requirements of this article for  
7 conducting a phase I environmental assessment unless and until  
8 the Department of Toxic Substances Control adopts final  
9 regulations that establish guidelines for a phase I environmental  
10 assessment for purposes of schoolsites that impose different  
11 requirements from those imposed by the American Society for  
12 Testing and Materials. requirements.

13 (h) "Preliminary endangerment assessment" means an activity  
14 that is performed to determine whether current or past hazardous  
15 material management practices or waste management practices  
16 have resulted in a release or threatened release of hazardous  
17 materials, or whether naturally occurring hazardous materials are  
18 present, which pose a threat to children's health, children's learning  
19 abilities, public health or the environment. A preliminary  
20 endangerment assessment requires sampling and analysis of a site,  
21 a preliminary determination of the type and extent of hazardous  
22 material contamination of the site, and a preliminary evaluation  
23 of the risks that the hazardous material contamination of a site may  
24 pose to children's health, public health, or the environment, and  
25 shall be conducted in a manner that complies with the guidelines  
26 published by the Department of Toxic Substances Control entitled  
27 "Preliminary Endangerment Assessment: Guidance Manual,"  
28 including any amendments that are determined by the Department  
29 of Toxic Substances Control to be appropriate to address issues  
30 that are unique to schoolsites.

31 (i) "Proposed schoolsite" means real property acquired or to be  
32 acquired or proposed for use as a schoolsite, prior to its occupancy  
33 as a school.

34 (j) "Regulated substance" means any material defined in  
35 subdivision (g) of Section 25532 of the Health and Safety Code.

36 (k) "Release" has the same meaning the term is given in Article  
37 2 (commencing with Section 25310) of Chapter 6.8 of Division  
38 20 of the Health and Safety Code, and includes a release described  
39 in subdivision (d) of Section 25321 of the Health and Safety Code.

(l) “Remedial action plan” means a plan approved by the Department of Toxic Substances Control pursuant to Section 25356.1 of the Health and Safety Code.

(m) “State act” means the Carpenter-Presley-Tanner Hazardous Substance Account Act (Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code).

*SEC. 2. Section 19970 of the Education Code is amended to read:*

19970. Bonds in the total amount of ~~seventy-five~~ *seventy-two* million *four hundred five thousand* dollars ~~(\$75,000,000)~~ *(\$72,405,000)* (exclusive of refunding bonds), or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this chapter and to be used to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds shall, when sold, be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal of, and interest on, the bonds as the principal and interest become due and payable.

*SEC. 3. Section 100010 of the Education Code is amended to read:*

100010. ~~(a) Two~~ *An amount of up to two* billion twenty-five million dollars (\$2,025,000,000) of the proceeds of bonds issued and sold pursuant to this chapter shall be deposited in the State School Building Lease-Purchase Fund.

*SEC. 4. Section 100115 of the Education Code is amended to read:*

100115. ~~Nine~~ *An amount of up to nine* hundred seventy-five million dollars (\$975,000,000) of the proceeds of bonds issued and sold pursuant to this chapter shall be deposited in the 1996 Higher Education Capital Outlay Bond Fund, which is hereby created.

*SEC. 5. Section 100125 of the Education Code is amended to read:*

100125. (a) Bonds in the total amount of ~~three~~ *two billion nine hundred eighty-seven million thirty-five thousand* dollars ~~(\$3,000,000,000)~~ *(\$2,987,035,000)*, not including the amount of any refunding bonds issued in accordance with Section 100175, or so much thereof as is necessary, may be issued and sold to

1 provide a fund to be used for carrying out the purposes expressed  
2 in this chapter and to reimburse the General Obligation Bond  
3 Expense Revolving Fund pursuant to Section 16724.5 of the  
4 Government Code. The bonds, when sold, shall be and constitute  
5 a valid and binding obligation of the State of California, and the  
6 full faith and credit of the State of California is hereby pledged  
7 for the punctual payment of both principal of, and interest on, the  
8 bonds as the principal and interest become due and payable.

9 (b) Pursuant to this section, the Treasurer shall sell the bonds  
10 authorized by the Higher Education Facilities Finance Committee  
11 created pursuant to Section 67353 at any different times necessary  
12 to service expenditures required by the apportionments.

13 *SEC. 6. Section 2948 is added to the Fish and Game Code, to*  
14 *read:*

15 *2948. This article shall remain in effect only until January 1,*  
16 *2013, and as of that date is repealed, unless a later enacted statute,*  
17 *that is enacted before January 1, 2013, deletes or extends that*  
18 *date.*

19 *SEC. 7. Section 5653.1 of the Fish and Game Code is amended*  
20 *to read:*

21 5653.1. (a) The issuance of permits to operate vacuum or  
22 suction dredge equipment is a project pursuant to the California  
23 Environmental Quality Act (Division 13 (commencing with Section  
24 21000) of the Public Resources Code) and permits may only be  
25 issued, and vacuum or suction dredge mining may only occur as  
26 authorized by any existing permit, if the department has caused to  
27 be prepared, and certified the completion of, an environmental  
28 impact report for the project pursuant to the court order and consent  
29 judgment entered in the case of Karuk Tribe of California et al. v.  
30 California Department of Fish and Game et al., Alameda County  
31 Superior Court Case No. RG 05211597.

32 (b) Notwithstanding Section 5653, the use of any vacuum or  
33 suction dredge equipment in any river, stream, or lake of this state  
34 is prohibited until ~~June 30, 2016, or until~~ the director certifies to  
35 the Secretary of State that all of the following have ~~occurred,~~  
36 ~~whichever is earlier:~~ *occurred:*

37 (1) The department has completed the environmental review of  
38 its existing suction dredge mining regulations, as ordered by the  
39 court in the case of Karuk Tribe of California et al. v. California



1 Department of Fish and Game et al., Alameda County Superior  
2 Court Case No. RG 05211597.

3 (2) The department has transmitted for filing with the Secretary  
4 of State pursuant to Section 11343 of the Government Code, a  
5 certified copy of new regulations adopted, as necessary, pursuant  
6 to Chapter 3.5 (commencing with Section 11340) of Part 1 of  
7 Division 3 of Title 2 of the Government Code.

8 (3) The new regulations described in paragraph (2) are operative.

9 (4) The new regulations described in paragraph (2) fully mitigate  
10 all identified significant environmental impacts.

11 (5) A fee structure is in place that will fully cover all costs to  
12 the department related to the administration of the program.

13 *(c) (1) To facilitate its compliance with subdivision (b), the*  
14 *department shall consult with other agencies as it determines to*  
15 *be necessary, including, but not limited to, the State Water*  
16 *Resources Control Board, the State Department of Public Health,*  
17 *and the Native American Heritage Commission, and, on or before*  
18 *April 1, 2013, shall prepare and submit to the Legislature a report*  
19 *with recommendations on statutory changes or authorizations that,*  
20 *in the determination of the department, are necessary to develop*  
21 *the suction dredge regulations required by paragraph (2) of*  
22 *subdivision (b), including, but not limited to, recommendations*  
23 *relating to the mitigation of all identified significant environmental*  
24 *impacts and a fee structure that will fully cover all program costs.*

25 *(2) The requirement for submitting a report imposed under this*  
26 *subdivision is inoperative on January 1, 2017, pursuant to Section*  
27 *10231.5 of the Government Code.*

28 *(3) The report submitted to the Legislature pursuant to this*  
29 *subdivision shall be submitted in accordance with Section 9795*  
30 *of the Government Code.*

31 ~~(e)~~

32 *(d) The Legislature finds and declares that this section, as added*  
33 *during the 2009–10 Regular Session, applies solely to vacuum and*  
34 *suction dredging activities conducted for instream mining purposes.*  
35 *This section does not expand or provide new authority for the*  
36 *department to close or regulate suction dredging conducted for*  
37 *regular maintenance of energy or water supply management*  
38 *infrastructure, flood control, or navigational purposes governed*  
39 *by other state or federal law.*

40 ~~(d)~~

(e) This section does not prohibit or restrict nonmotorized recreational mining activities, including panning for gold.

*SEC. 8. The Legislature finds and declares that licensing, permitting, and inspection fees collected from milk producers, semifrozen milk product plants, hotels, restaurants, or boardinghouses issued limited manufacturing permits, and those engaged in the manufacture and testing of butter have not kept pace with the true cost of providing those services. Sections 10, 12, 13, 15, 16, and 17 of this act address those deficiencies by raising the fees charged for those services to a level that more accurately reflects the reasonable costs incurred by the agency providing those services.*

*SEC. 9. Section 33222 of the Food and Agricultural Code is amended to read:*

33222. Every person, before engaging in the business of producing market *milk or manufacturing* milk, shall obtain a permit from the secretary or from the approved milk inspection service that is maintained by the county designated by the ~~director~~ *secretary* pursuant to this chapter for each dairy farm.

*SEC. 10. Section 33223 of the Food and Agricultural Code is amended to read:*

33223. If a permit is issued by an approved milk inspection service designated by the secretary to a producer of market *milk or manufacturing* milk, no other permit shall be required of the producer by any other approved milk inspection service.

*SEC. 11. Section 33225 of the Food and Agricultural Code is amended to read:*

33225. If this division and the standards that are established by or adopted pursuant to the authority that is granted in this division are complied with, ~~and the applicant's milk is to be delivered within a county which maintains an approved milk inspection service,~~ a permit shall be issued by the secretary or the *designated* approved milk inspection service, to the dairy farm. The permit shall be issued for a period not to exceed one year.

*SEC. 12. Section 33251 of the Food and Agricultural Code is amended to read:*

33251. The county that maintains an approved milk inspection service where an inspection fee is levied and collected shall determine the actual cost of making an inspection of a dairy farm that produces ~~market~~ milk within the area that is designated and

1 assigned to that service by the secretary. Records of the cost  
2 determination shall be made and maintained by the county for  
3 examination by the secretary or other interested person.

4 *SEC. 13. Section 33252 of the Food and Agricultural Code is*  
5 *amended to read:*

6 33252. For the purpose of maintaining an approved milk  
7 inspection service, the county may, but is not required to, levy and  
8 collect an inspection fee or fees from producers of ~~market~~ milk  
9 that is produced at dairy farms within the area that is designated  
10 and assigned to that service by the ~~director~~ secretary.

11 *SEC. 14. Section 33253 of the Food and Agricultural Code is*  
12 *amended to read:*

13 33253. The dairy farm inspection fee shall not exceed the actual  
14 cost to the county of making the dairy farm ~~inspection~~ inspection,  
15 *provided that an additional 15 percent of the fees collected shall*  
16 *be remitted to the secretary to cover the reasonable cost of*  
17 *administering Sections 33082, 33118, and 33119, and the oversight*  
18 *requirements of the National Conference on Interstate Milk*  
19 *Shipments.*

20 *SEC. 15. Section 33257 of the Food and Agricultural Code is*  
21 *amended to read:*

22 33257. If an approved milk inspection service inspects a dairy  
23 farm, the dairy farm inspection fee, if levied, shall be collected  
24 from the producer of ~~market~~ milk that is produced on the dairy  
25 farm.

26 *SEC. 16. Section 33291 of the Food and Agricultural Code is*  
27 *amended to read:*

28 33291. Every person that is engaged in the production of ~~market~~  
29 milk outside the jurisdiction of an approved milk inspection service  
30 and every person engaged in the processing, manufacture, or  
31 distribution of milk, milk products, or products resembling milk  
32 products, in the cleaning or sanitizing of bulk milk tanker trucks,  
33 or in the processing, manufacture, or freezing of ice cream, ice  
34 milk, sherbet, or any similar frozen product shall pay a cost-related  
35 inspection fee, *not to exceed the reasonable costs of the services*  
36 *provided, to the secretary.*

37 *SEC. 17. Section 33292 of the Food and Agricultural Code is*  
38 *amended to read:*

39 33292. (a) Every milk products plant *or milk handler that is*  
40 ~~subject to this chapter~~ *purchases, or otherwise acquires possession*

1 or control of, milk directly from producers shall deduct from  
2 payments that are due producers for ~~market~~ milk, and shall pay to  
3 the secretary, the fee, *not to exceed the reasonable costs of the*  
4 *services provided*, required to be paid by the producer.

5 (b) For purposes of this article, “milk handler” means any  
6 person that, as owner, agent, broker, or intermediary, receives,  
7 purchases, or otherwise acquires ownership, possession, or control  
8 of milk or manufacturing milk in unprocessed or bulk form from  
9 a producer for the purpose of manufacture, processing, sale,  
10 distribution, or other handling.

11 (c) For purposes of this article, “producer” means any person  
12 that operates a dairy farm as defined in Section 32505.

13 SEC. 18. Section 33294 of the Food and Agricultural Code is  
14 repealed.

15 ~~33294. (a) The secretary shall fix the fee for dairy farm~~  
16 ~~inspection not to exceed the actual directly related costs.~~

17 ~~(b) Whenever the secretary finds that the cost of administering~~  
18 ~~this chapter can be defrayed from revenue derived from lower fees,~~  
19 ~~the secretary may adjust the fee, but in no case shall the initial~~  
20 ~~inspection fee for producers who sell market milk at wholesale~~  
21 ~~that is to be sold as graded market milk, exceed three mills (\$0.003)~~  
22 ~~per gallon of the first 45,000 gallons only on graded market milk~~  
23 ~~that was sold during the quarter-year period preceding the date the~~  
24 ~~inspection fee becomes due and payable.~~

25 ~~(c) Notwithstanding the fee limit specified in this section for~~  
26 ~~producers, the secretary may increase the inspection fee by an~~  
27 ~~amount not to exceed one quarter mill (\$0.00025) per gallon per~~  
28 ~~annum.~~

29 ~~(d) The secretary shall charge a dairy farm all actual direct costs~~  
30 ~~for initial and any followup dairy farm inspections for a facility~~  
31 ~~out of compliance in the initial inspection. However, in no event~~  
32 ~~shall the fee for an initial inspection exceed the limitation~~  
33 ~~established in subdivisions (a) and (b).~~

34 SEC. 19. Section 33294 is added to the Food and Agricultural  
35 Code, to read:

36 33294. (a) Every producer shall pay an inspection fee not to  
37 exceed twelve cents (\$0.12) per hundredweight of the first 482,000  
38 pounds only on milk produced by him or her during the quarter  
39 year preceding the date the inspection fee becomes due and payable  
40 or two hundred fifty dollars (\$250), whichever is greater.

1     **(b)** *Notwithstanding the fee limit specified in this section for*  
2 *producers, the secretary may increase the inspection fee by an*  
3 *amount not to exceed one-half cent (\$.005) per hundredweight*  
4 *per annum.*

5     **(c)** *The secretary shall annually fix the fees at an amount not*  
6 *to exceed actual reasonable program costs for administration of*  
7 *this chapter, and may adjust the per hundredweight fee whenever*  
8 *he or she finds that the cost of administering the provisions of this*  
9 *chapter can be defrayed from revenues derived from lower rates.*  
10 *Any money collected by the secretary pursuant to this section shall*  
11 *be paid into the Department of Food and Agriculture Fund.*

12     **(d)** *The secretary shall charge a dairy farm all actual direct*  
13 *costs for initial and any followup dairy farm inspections for a*  
14 *facility out of compliance with the initial inspection. However, in*  
15 *no event shall the fee for an initial inspection exceed the limitation*  
16 *established in subdivisions (a) and (b).*

17     **(e)** *The secretary shall establish plan review fees for sanitary*  
18 *design and construction review activities relating to dairy farms*  
19 *pursuant to Chapter 5 (commencing with Section 33451).*

20     **SEC. 20.** *Section 35221 of the Food and Agricultural Code is*  
21 *amended to read:*

22     35221. (a) Every person that is engaged in the business of  
23 dealing in, receiving, manufacturing, freezing, or processing ice  
24 cream, ice milk, sherbet, or any similar frozen product, of  
25 manufacturing, freezing, or processing imitation ice cream,  
26 imitation ice milk, or any similar frozen product, or of processing  
27 any other dairy product for which a license is required, shall pay  
28 the following fees:

29     (1) For a license for all frozen milk products and all imitation  
30 frozen milk products, one hundred dollars (\$100) for the calendar  
31 year for which the license is issued. The fee for the renewal of this  
32 license is one hundred dollars (\$100), plus one dollar (\$1) for each  
33 additional 10,000 gallons or fraction of 10,000 gallons over and  
34 above 20,000 gallons that were manufactured during the preceding  
35 year, ending December 31.

36     (2) For a semifrozen (soft-serve) milk products plant license  
37 issued to persons making application under Section 33704, ~~one~~  
38 ~~two hundred-fifty~~ *twenty-five* dollars ~~(\$150)~~ (\$225) for the calendar  
39 year for which the semifrozen (soft-serve) milk products plant

1 license is issued. The fee for the renewal of this license is ~~one two~~  
2 ~~hundred fifty twenty-five~~ dollars ~~(\$150)~~. (\$225).

3 (3) For a limited packaging permit issued to a licensed  
4 semifrozen (soft-serve) milk products plant making application  
5 under subdivision (b) of Section 33704, three hundred dollars  
6 (\$300) for issuance of the initial permit. The fee for the annual  
7 renewal of this permit is one hundred fifty dollars (\$150).

8 (4) For a limited manufacturing permit issued to a hotel,  
9 restaurant, or boardinghouse pursuant to Section 35016, ~~one two~~  
10 ~~hundred twenty-five~~ dollars ~~(\$100)~~ (\$225) for the initial permit.  
11 The fee for the annual renewal of this permit shall be ~~one two~~  
12 ~~hundred twenty-five~~ dollars ~~(\$100)~~. (\$225).

13 (5) For a person, except a hospital or sanitarium, that is engaged  
14 in the business of manufacturing any diabetic or dietetic frozen  
15 milk product or mix, one hundred dollars (\$100) for the calendar  
16 year for which a diabetic or dietetic frozen milk products license  
17 is issued. The fee for the renewal of this license is one hundred  
18 dollars (\$100).

19 (6) For any other product for which a license is required, one  
20 hundred dollars (\$100) for the calendar year for which the license  
21 is issued. The fee for the renewal of this license is one hundred  
22 dollars (\$100), plus one dollar (\$1) for each additional 10,000  
23 pounds or fraction of 10,000 pounds over and above the first  
24 100,000 pounds, of milk fat that was purchased or received during  
25 the preceding year, ending December 31.

26 (b) The license and permit fees required by this section shall be  
27 prorated on a quarterly basis for any licensee or permittee that  
28 commences operations after the first quarter in any calendar year,  
29 regardless of whether or not the milk products plant was licensed  
30 or permitted during the preceding calendar year.

31 *SEC. 21. Section 35231 of the Food and Agricultural Code is*  
32 *amended to read:*

33 35231. The initial and renewal fees for a tester's, sampler's  
34 and weigher's, technician's, pasteurizer's, and butter grader's  
35 license are as follows:

36 (a) For a tester's license, including a nonfat milk solids tester,  
37 ~~seventy-five one hundred~~ dollars ~~(\$75)~~. (\$100).

38 (b) For a sampler's and weigher's license, ~~seventy-five one~~  
39 ~~hundred~~ dollars ~~(\$75)~~. (\$100).

1 (c) For a limited sampler's and weigher's license, ~~fifty~~  
2 ~~seventy-five~~ dollars ~~(\$50)~~. (\$75).

3 (d) For a technician's license, one hundred dollars (\$100).

4 (e) For a pasteurizer's license, ~~seventy-five one hundred~~ dollars  
5 ~~(\$75)~~. (\$100).

6 (f) For a butter grader's license, ~~seventy-five one hundred~~ dollars  
7 ~~(\$75)~~. (\$100).

8 SEC. 22. Chapter 5 (commencing with Section 12894) is added  
9 to Part 2.5 of Division 3 of Title 2 of the Government Code, to  
10 read:

11  
12 CHAPTER 5. GREENHOUSE GAS MARKET-BASED COMPLIANCE  
13 MECHANISMS AND LINKAGES TO THE STATE  
14

15 12894. (a) (1) The Legislature finds and declares that the  
16 establishment of nongovernmental entities, such as the Western  
17 Climate Initiative, Incorporated, and linkages with other states  
18 and countries by the State Air Resources Board or other state  
19 agencies for the purposes of implementing Division 25.5  
20 (commencing with Section 38500) of the Health and Safety Code,  
21 should be done transparently and should be independently reviewed  
22 by the Attorney General for consistency with all applicable laws.

23 (2) The purpose of this section is to establish new oversight and  
24 transparency over any such linkages and related activities  
25 undertaken in relation to Division 25.5 (commencing with Section  
26 38500) of the Health and Safety Code by the executive agencies  
27 in order to ensure consistency with applicable laws.

28 (b) (1) The California membership of the board of directors of  
29 the Western Climate Initiative, Incorporated, shall be modified as  
30 follows:

31 (A) One appointee or his or her designee who shall serve as an  
32 ex officio nonvoting member shall be appointed by the Senate  
33 Committee on Rules.

34 (B) One appointee or his or her designee who shall serve as an  
35 ex officio nonvoting member shall be appointed by the Speaker of  
36 the Assembly.

37 (C) The Chairperson of the State Air Resources Board or her  
38 or his designee.

39 (D) The Secretary for Environmental Protection or his or her  
40 designee.

1     (2) Sections 11120 through 11132 do not apply to the Western  
2     Climate Initiative, Incorporated, or to appointees specified in  
3     subparagraphs (C) and (D) of paragraph (1) when performing  
4     their duties under this section.

5     (c) The State Air Resources Board shall provide notice to the  
6     Joint Legislative Budget Committee, consistent with that required  
7     for Department of Finance augmentation or reduction  
8     authorizations pursuant to subdivision (e) of Section 28.00 of the  
9     annual Budget Act, of any funds over one hundred fifty thousand  
10    dollars (\$150,000) provided to the Western Climate Initiative,  
11    Incorporated, or its derivatives or subcontractors no later than  
12    30 days prior to transfer or expenditure of these funds.

13    (d) The Chairperson of the State Air Resources Board and the  
14    Secretary for Environmental Protection, as the California voting  
15    representatives on the Western Climate Initiative, Incorporated,  
16    shall report every six months to the Joint Legislative Budget  
17    Committee on any actions proposed by the Western Climate  
18    Initiative, Incorporated, that affect California state government  
19    or entities located within the state.

20    (e) For purposes of this section, “link,” “linkage,” or “linking”  
21    means an action taken by the State Air Resources Board or any  
22    other state agency that will result in acceptance by the State of  
23    California of compliance instruments issued by any other  
24    governmental agency, including any state, province, or country,  
25    for purposes of demonstrating compliance with the market-based  
26    compliance mechanism established pursuant to Division 25.5  
27    (commencing with Section 38500) of the Health and Safety Code  
28    and specified in Sections 95801 to 96022, inclusive, of Title 17 of  
29    the California Code of Regulations.

30    (f) A state agency, including, but not limited to, the State Air  
31    Resources Board, shall not link a market-based compliance  
32    mechanism established pursuant to Division 25.5 (commencing  
33    with Section 38500) of the Health and Safety Code and specified  
34    in Sections 95801 to 96022, inclusive, of Title 17 of the California  
35    Code of Regulations with any other state, province, or country  
36    unless the state agency notifies the Governor that the agency  
37    intends to take such action and the Governor, acting in his or her  
38    independent capacity, makes all of the following findings:

39    (1) The jurisdiction with which the state agency proposes to  
40    link has adopted program requirements for greenhouse gas



1 *reductions, including, but not limited to, requirements for offsets,*  
2 *that are equivalent to or stricter than those required by Division*  
3 *25.5 (commencing with Section 38500) of the Health and Safety*  
4 *Code.*

5 *(2) Under the proposed linkage, the State of California is able*  
6 *to enforce Division 25.5 (commencing with Section 38500) of the*  
7 *Health and Safety Code and related statutes, against any entity*  
8 *subject to regulation under those statutes, and against any entity*  
9 *located within the linking jurisdiction to the maximum extent*  
10 *permitted under the United States and California Constitutions.*

11 *(3) The proposed linkage provides for enforcement of applicable*  
12 *laws by the state agency or by the linking jurisdiction of program*  
13 *requirements that are equivalent to or stricter than those required*  
14 *by Division 25.5 (commencing with Section 38500) of the Health*  
15 *and Safety Code.*

16 *(4) The proposed linkage and any related participation of the*  
17 *State of California in Western Climate Initiative, Incorporated,*  
18 *shall not impose any significant liability on the state or any state*  
19 *agency for any failure associated with the linkage.*

20 *(g) The Governor shall issue findings pursuant to subdivision*  
21 *(f) within 45 days of receiving a notice from a state agency, and*  
22 *shall provide those findings to the Legislature. The findings shall*  
23 *consider the advice of the Attorney General. The findings to be*  
24 *submitted to the Legislature shall not be unreasonably withheld.*

25 *SEC. 23. Section 14669.13 of the Government Code is repealed.*

26 ~~14669.13. (a) The Director of General Services may enter into~~  
27 ~~an agreement to lease-purchase finance or lease with an option to~~  
28 ~~purchase, with an initial option purchase price that exceeds two~~  
29 ~~million dollars (\$2,000,000), for the purpose of providing~~  
30 ~~approximately 230,000 net square feet of office, warehouse,~~  
31 ~~parking, and related facilities to consolidate the operations of state~~  
32 ~~agencies in Long Beach. The acquisition of any real property by~~  
33 ~~lease, lease-purchase, or lease with an option to purchase as~~  
34 ~~provided in this subdivision shall be made in accordance with the~~  
35 ~~bidding procedures described in subdivision (b) of Section 14669.~~

36 ~~(b) The State Public Works Board may issue revenue bonds,~~  
37 ~~negotiable notes, or negotiable bond anticipation notes pursuant~~  
38 ~~to the State Building Construction Act of 1955 (Part 10b~~  
39 ~~(commencing with Section 15800)) to finance the acquisition of~~  
40 ~~the facilities authorized in subdivision (a). The board may borrow~~

1 funds for project costs from the Pooled Money Investment Account  
2 pursuant to Sections 16312 and 16313.

3 ~~(1) The amount of revenue bonds, negotiable notes, or negotiable~~  
4 ~~bond anticipation notes to be sold shall equal the cost of~~  
5 ~~acquisition, including land, construction, preliminary plans, and~~  
6 ~~working drawings, construction management and supervision,~~  
7 ~~other costs relating to the design and construction of the facilities;~~  
8 ~~exercise of any purchase option, and any additional sums necessary~~  
9 ~~to pay interim and permanent financing costs. The additional~~  
10 ~~amount may include interest and a reasonable required reserve~~  
11 ~~fund.~~

12 ~~(2) Authorized costs of the facilities, including land acquisition,~~  
13 ~~preliminary plans, working drawings and construction shall not~~  
14 ~~exceed seventy-five million dollars (\$75,000,000).~~

15 ~~(3) Notwithstanding Section 13332.11, the State Public Works~~  
16 ~~Board may authorize the augmentation of the amount authorized~~  
17 ~~pursuant to this subdivision by up to 10 percent of the amount~~  
18 ~~specifically authorized.~~

19 ~~(e) The net present value of the cost to acquire and operate the~~  
20 ~~facilities authorized in subdivision (a) may not exceed the net~~  
21 ~~present value of the cost to lease and operate an equivalent amount~~  
22 ~~of office space, including the present facilities, over the same time~~  
23 ~~period. In performing this analysis, interest rates, discount rates,~~  
24 ~~and the consumer price index figures shall be obtained from the~~  
25 ~~Treasurer.~~

26 ~~(d) The Director of General Services may sell, lease, or~~  
27 ~~exchange, based on current market value and upon any terms and~~  
28 ~~conditions, and with any reservations and exceptions, deemed by~~  
29 ~~the director to be in the state's best interest, the existing state office~~  
30 ~~and parking facilities located at 245 West Broadway Street in the~~  
31 ~~City of Long Beach. The net proceeds, if any, from the sale, lease,~~  
32 ~~or exchange shall be applied toward any obligations undertaken~~  
33 ~~by the director in securing consolidated facilities as authorized by~~  
34 ~~this section.~~

35 ~~(e) The director shall not enter into any agreement to acquire~~  
36 ~~facilities, as specified in subdivision (a), any sooner than 45 days~~  
37 ~~after notification, including the information specified in subdivision~~  
38 ~~(e), to the Chairperson of the Joint Legislative Budget Committee.~~

39 *SEC. 24. Section 15819.05 of the Government Code is repealed.*

1 15819.05. ~~(a) The State Public Works Board may issue revenue~~  
2 ~~bonds, negotiable notes, or negotiable bond anticipation notes~~  
3 ~~pursuant to Chapter 5 (commencing with Section 15830) of this~~  
4 ~~part to finance the acquisition of the facilities specified in Sections~~  
5 ~~14016 and 14669.9.~~

6 ~~(b) The amount of revenue bonds, negotiable notes, or negotiable~~  
7 ~~bond anticipation notes to be sold shall equal the cost of~~  
8 ~~acquisition, including land, construction, preliminary plans and~~  
9 ~~working drawings, construction management and supervision,~~  
10 ~~other costs relating to the design and construction of the facilities,~~  
11 ~~exercise of any purchase option, and any additional sums necessary~~  
12 ~~to pay interim and permanent financing costs. The additional~~  
13 ~~amount may include interest and a reasonable required reserve~~  
14 ~~fund.~~

15 ~~(c) Authorized costs of the facilities, including land acquisition,~~  
16 ~~preliminary plans, working drawings and construction shall not~~  
17 ~~exceed one hundred and seventy-five million dollars~~  
18 ~~(\$175,000,000).~~

19 ~~(d) The State Public Works Board may authorize the~~  
20 ~~augmentation of the amount authorized by this section subject to~~  
21 ~~the limitations specified in Section 13332.11.~~

22 ~~(e) Notwithstanding Section 13340 of the Government Code,~~  
23 ~~funds derived from the interim and permanent financing or~~  
24 ~~refinancing of the facilities specified in Sections 14016 and 14669.9~~  
25 ~~are hereby continuously appropriated without regard to fiscal year~~  
26 ~~for these purposes.~~

27 *SEC. 25. Article 9.7 (commencing with Section 16428.8) is*  
28 *added to Chapter 2 of Part 2 of Division 4 of Title 2 of the*  
29 *Government Code, to read:*

30  
31 *Article 9.7. GREENHOUSE GAS REDUCTION FUND AND*  
32 *COST OF IMPLEMENTATION ACCOUNT*  
33

34 *16428.8. (a) The Greenhouse Gas Reduction Fund, hereafter*  
35 *referred to in this article as the fund, is hereby created as a special*  
36 *fund in the State Treasury.*

37 *(b) Except for fines and penalties, all moneys collected by the*  
38 *State Air Resources Board from the auction or sale of allowances,*  
39 *pursuant to a market-based compliance mechanism established*  
40 *pursuant to Division 25.5 (commencing with Section 38500) of the*

1 *Health and Safety Code and specified in Sections 95800 to 96022,*  
2 *inclusive, of Title 17 of the California Code of Regulations, shall*  
3 *be deposited in the fund and available for appropriation by the*  
4 *Legislature.*

5 *(c) All moneys deposited in the fund shall be appropriated and*  
6 *shall be separately identified in the annual Budget Act. No moneys*  
7 *from the General Fund or any other fund shall be deposited in the*  
8 *fund.*

9 *(d) Notwithstanding any other law, the Controller may use the*  
10 *moneys in the fund for cash flow loans to the General Fund as*  
11 *provided in Sections 16310 and 16381.*

12 *(e) Any technical amendments made by the State Air Resources*  
13 *Board to the regulations established under Sections 95800 to*  
14 *96022, inclusive, of Title 17 of the California Code of Regulations*  
15 *to conform that regulation to this article shall be exempt from the*  
16 *provisions of the Administrative Procedure Act (Chapter 3.5*  
17 *(commencing with Section 11340) of Part 1 of Division 3) and*  
18 *from the review and approval of the Office of Administrative Law.*

19 *16428.85. (a) Except as provided in subdivision (b), the*  
20 *Department of Finance shall submit to the Legislature, in bill*  
21 *format, on or before January 10, 2013, a proposal that provides*  
22 *a detailed spending plan for the expenditure of moneys in the fund*  
23 *that includes the components specified in subdivision (b).*

24 *(b) Subdivision (a) shall not apply if the Legislature passes a*  
25 *bill on or before August 31, 2012, that becomes law specifying a*  
26 *process for the establishment of the long-term spending strategy*  
27 *for moneys in the fund that includes all of the following*  
28 *components:*

29 *(1) Criteria and requirements for use of these moneys.*

30 *(2) Establishment of program categories eligible for funding.*

31 *(3) The specification of a public process that the State Air*  
32 *Resources Board shall use to develop the strategy.*

33 *(4) The role of the Legislature in reviewing the strategy.*

34 *16428.9. (a) Prior to expending any moneys appropriated to*  
35 *it by the Legislature from the fund, a state agency shall prepare a*  
36 *record consisting of all of the following:*

37 *(1) A description of each expenditure proposed to be made by*  
38 *the state agency pursuant to the appropriation.*

39 *(2) A description of how a proposed expenditure will further*  
40 *the regulatory purposes of Division 25.5 (commencing with Section*

1 38500) of the Health and Safety Code, including, but not limited  
2 to, the limit established under Part 3 (commencing with Section  
3 38550) and other applicable requirements of law.

4 (3) A description of how a proposed expenditure will contribute  
5 to achieving and maintaining greenhouse gas emission reductions  
6 pursuant to Division 25.5 (commencing with Section 38500) of the  
7 Health and Safety Code.

8 (4) A description of how the state agency considered the  
9 applicability and feasibility of other nongreenhouse gas reduction  
10 objectives of Division 25.5 (commencing with Section 38500) of  
11 the Health and Safety Code.

12 (5) A description of how the state agency will document the  
13 result achieved from the expenditure to comply with Division 25.5  
14 (commencing with Section 35800) of the Health and Safety Code.

15 (b) Nothing in this section alters, amends, or otherwise modifies  
16 in any manner Division 25.5 (commencing with Section 35800) of  
17 the Health and Safety Code, including the authority of the State  
18 Air Resources Board to adopt and implement a fee pursuant to  
19 that division.

20 (c) If any expenditure of moneys from the fund for any measure  
21 or project is determined by a court to be inconsistent with law, the  
22 funding for the remaining measures or projects shall be severable  
23 and shall not be affected.

24 16428.95. Notwithstanding Section 38597 of the Health and  
25 Safety Code, the Cost of Implementation Account is hereby  
26 established in the Air Pollution Control Fund, and revenues  
27 collected pursuant to that section shall be available upon  
28 appropriation by the Legislature for purposes of carrying out  
29 Division 25.5 (commencing with Section 38500) of the Health and  
30 Safety Code, and shall be maintained separately from all other  
31 funds in the Air Pollution Control Fund.

32 SEC. 26. Section 65962.5 of the Government Code is amended  
33 to read:

34 65962.5. (a) The Department of Toxic Substances Control  
35 shall compile and update as appropriate, but at least annually, and  
36 shall submit to the Secretary for Environmental Protection, a list  
37 of all of the following:

38 (1) All hazardous waste facilities subject to corrective action  
39 pursuant to Section 25187.5 of the Health and Safety Code.

(2) All land designated as hazardous waste property or border zone property pursuant to *former* Article 11 (commencing with Section 25220) of Chapter 6.5 of Division 20 of the Health and Safety Code.

(3) All information received by the Department of Toxic Substances Control pursuant to Section 25242 of the Health and Safety Code on hazardous waste disposals on public land.

(4) All sites listed pursuant to Section 25356 of the Health and Safety Code.

~~(5) All sites included in the Abandoned Site Assessment Program.~~

(b) The State Department of Health Services shall compile and update as appropriate, but at least annually, and shall submit to the Secretary for Environmental Protection, a list of all public drinking water wells that contain detectable levels of organic contaminants and that are subject to water analysis pursuant to Section 116395 of the Health and Safety Code.

(c) The State Water Resources Control Board shall compile and update as appropriate, but at least annually, and shall submit to the Secretary for Environmental Protection, a list of all of the following:

(1) All underground storage tanks for which an unauthorized release report is filed pursuant to Section 25295 of the Health and Safety Code.

(2) All solid waste disposal facilities from which there is a migration of hazardous waste and for which a California regional water quality control board has notified the Department of Toxic Substances Control pursuant to subdivision (e) of Section 13273 of the Water Code.

(3) All cease and desist orders issued after January 1, 1986, pursuant to Section 13301 of the Water Code, and all cleanup or abatement orders issued after January 1, 1986, pursuant to Section 13304 of the Water Code, that concern the discharge of wastes that are hazardous materials.

(d) The local enforcement agency, as designated pursuant to Section 18051 of Title 14 of the California Code of Regulations, shall compile as appropriate, but at least annually, and shall submit to the ~~California Integrated Waste Management Board~~, *Department of Resources Recycling and Recovery*, a list of all solid waste disposal facilities from which there is a known migration of

hazardous waste. The ~~California Integrated Waste Management Board~~ *Department of Resources Recycling and Recovery* shall compile the local lists into a statewide list, which shall be submitted to the Secretary for Environmental Protection and shall be available to any person who requests the information.

(e) The Secretary for Environmental Protection shall consolidate the information submitted pursuant to this section and distribute it in a timely fashion to each city and county in which sites on the lists are located. The secretary shall distribute the information to any other person upon request. The secretary may charge a reasonable fee to persons requesting the information, other than cities, counties, or cities and counties, to cover the cost of developing, maintaining, and reproducing and distributing the information.

(f) Before a lead agency accepts as complete an application for any development project which will be used by any person, the applicant shall consult the lists sent to the appropriate city or county and shall submit a signed statement to the local agency indicating whether the project and any alternatives are located on a site that is included on any of the lists compiled pursuant to this section and shall specify any list. If the site is included on a list, and the list is not specified on the statement, the lead agency shall notify the applicant pursuant to Section 65943. The statement shall read as follows:

#### HAZARDOUS WASTE AND SUBSTANCES STATEMENT

The development project and any alternatives proposed in this application are contained on the lists compiled pursuant to Section 65962.5 of the Government Code. Accordingly, the project applicant is required to submit a signed statement that contains the following information:

Name of applicant:

Address:

Phone number:

Address of site (street name and number if available, and ZIP Code):

Local agency (city/county):

Assessor's book, page, and parcel number:

Specify any list pursuant to Section 65962.5 of the Government Code:

1 Regulatory identification number:

2 Date of list:

3  
4 \_\_\_\_\_  
5 Applicant, Date  
6

7 (g) The changes made to this section by the act amending this  
8 section, that takes effect January 1, 1992, apply only to projects  
9 for which applications have not been deemed complete on or before  
10 January 1, 1992, pursuant to Section 65943.

11 *SEC. 27. Section 25114.5 is added to the Health and Safety*  
12 *Code, to read:*

13 *25114.5. "Environmental assessor" means an environmental*  
14 *professional as defined in Section 312.10 of Title 40 of the Code*  
15 *of Federal Regulations. Notwithstanding Section 25110, this*  
16 *definition shall apply for all California statutes, unless the context*  
17 *requires otherwise.*

18 *SEC. 28. Section 25117.3 of the Health and Safety Code is*  
19 *repealed.*

20 ~~25117.3. (a) "Hazardous waste property" means land which~~  
21 ~~is either of the following:~~

22 ~~(1) Any hazardous waste facility or portion thereof, required to~~  
23 ~~be permitted pursuant to this chapter, which has a permit for~~  
24 ~~disposal from the department or has submitted an application for~~  
25 ~~such a permit.~~

26 ~~(2) A portion of any land designated as a hazardous waste~~  
27 ~~property pursuant to Section 25229 where a significant disposal~~  
28 ~~of hazardous waste has occurred on, under, or into the land~~  
29 ~~resulting in a significant existing or potential hazard to present or~~  
30 ~~future public health or safety.~~

31 ~~(b) "Hazardous waste property" does not mean residential land~~  
32 ~~that has never received waste chemicals from an industrial,~~  
33 ~~commercial, agricultural, research, or business activity.~~

34 *SEC. 29. Section 25117.4 of the Health and Safety Code is*  
35 *repealed.*

36 ~~25117.4. "Border zone property" means any property~~  
37 ~~designated as border zone property pursuant to Section 25229~~  
38 ~~which is within 2,000 feet of a significant disposal of hazardous~~  
39 ~~waste, and the wastes so located are a significant existing or~~



1 potential hazard to present or future public health or safety on the  
2 land in question.

3 *SEC. 30. Section 25149.3 of the Health and Safety Code is*  
4 *repealed.*

5 ~~25149.3.— (a) Upon the request of any interested person, the~~  
6 ~~department shall examine and determine whether or not the use~~  
7 ~~of any property for any one of the purposes set forth in paragraph~~  
8 ~~(1) of subdivision (b) of Section 25232 constitutes a significant~~  
9 ~~existing or potential hazard to present or future health or safety~~  
10 ~~because of the proximity of the property to an existing hazardous~~  
11 ~~waste facility as defined in this article. If the department determines~~  
12 ~~that a significant existing or potential hazard to present or future~~  
13 ~~public health or safety exists on the property, it shall give notice~~  
14 ~~and hold a public hearing. If a significant disposal of hazardous~~  
15 ~~waste has occurred on that property or if the property is within~~  
16 ~~2,000 feet of a significant disposal of hazardous waste, the~~  
17 ~~department shall hold this public hearing pursuant to Article 11~~  
18 ~~(commencing with Section 25220) and the director may make a~~  
19 ~~designation of that property pursuant to that article. If the~~  
20 ~~department determines that there is no significant existing or~~  
21 ~~potential hazard to present or future public health or safety on the~~  
22 ~~property, it shall so notify the person who requested the~~  
23 ~~determination and the local jurisdiction.~~

24 ~~(b) All costs incurred by the department pursuant to this section,~~  
25 ~~including the costs of any hearing, shall be borne by the person~~  
26 ~~making the request. The authority conferred on the department,~~  
27 ~~pursuant to this section, shall be in addition to its authority with~~  
28 ~~respect to the regulation of hazardous waste property and border~~  
29 ~~zone property. A special account administered by the department~~  
30 ~~shall be established for each request made to the department for~~  
31 ~~the examination and determination specified in subdivision (a).~~  
32 ~~The department shall provide the requesting person an estimate of~~  
33 ~~the amount of money which would be necessary to accomplish the~~  
34 ~~examination, determination, and any subsequent hearing by the~~  
35 ~~department pursuant to that request. The estimated amount, which~~  
36 ~~shall be paid to the department before the department undertakes~~  
37 ~~any activity pursuant to subdivision (a), shall be deposited in the~~  
38 ~~special account. Expenditures from this special account shall not~~  
39 ~~be made in excess of the total amount of money in that special~~  
40 ~~account at any time. Expenditures in excess of the initial deposit~~

1 may be made only when additional money is received from the  
2 requesting person and deposited into the account.

3 Notwithstanding any other provision of law, the department may  
4 enter into contracts for any action taken, or to be taken, pursuant  
5 to subdivision (a). These contracts do not require approval by the  
6 Department of General Services pursuant to Article 1 (commencing  
7 with Section 14780) of Chapter 6 of Part 5.5 of Division 3 of Title  
8 2 of the Government Code.

9 (e) A local jurisdiction shall not take any action with respect to  
10 the uses of land for any of those purposes, including, but not limited  
11 to, a general plan amendment, zoning change, or the imposition  
12 of conditions on the use of property, which land is subject to an  
13 existing zoning classification which permits the uses set forth in  
14 paragraph (1) of subdivision (b) of Section 25232 for which an  
15 examination and determination has been requested pursuant to  
16 subdivision (a), solely on the basis of a health hazard due to the  
17 property's proximity to an existing hazardous waste facility, unless  
18 the department has made a determination, pursuant to subdivision  
19 (a), that those uses of the property constitute a significant existing  
20 or potential hazard to present or future public health or safety.

21 (d) No application for a building permit or for the use of property  
22 which is the subject of a request pursuant to subdivision (a) shall  
23 be acted upon pending a determination by the department, unless  
24 the permit or use is not for a purpose set forth in paragraph (1) of  
25 subdivision (b) of Section 25232.

26 The department shall act upon the request within 90 days.

27 (e) This section does not apply to any land or property which  
28 is more than one mile from a significant disposal of hazardous  
29 waste within an existing hazardous waste facility, as defined in  
30 this article.

31 *SEC. 31. Section 25173.6 of the Health and Safety Code is*  
32 *amended to read:*

33 25173.6. (a) There is in the General Fund the Toxic Substances  
34 Control Account, which shall be administered by the director. In  
35 addition to any other money that may be appropriated by the  
36 Legislature to the Toxic Substances Control Account, all of the  
37 following shall be deposited in the account:

38 (1) The fees collected pursuant to Section 25205.6.

39 (2) The fees collected pursuant to Section 25187.2, to the extent  
40 that those fees are for oversight of a removal or remedial action

1 taken under Chapter 6.8 (commencing with Section 25300) or  
2 Chapter-6.85 6.86 (commencing with Section 25396).

3 (3) Fines or penalties collected pursuant to this chapter, Chapter  
4 6.8 (commencing with Section 25300) or Chapter-6.85 6.86  
5 (commencing with Section 25396), except as directed otherwise  
6 by Section 25192.

7 (4) Interest earned upon money deposited in the Toxic  
8 Substances Control Account.

9 (5) All money recovered pursuant to Section 25360, except any  
10 amount recovered on or before June 30, 2006, that was paid from  
11 the Hazardous Substance Cleanup Fund.

12 (6) All money recovered pursuant to Section 25380.

13 (7) All penalties recovered pursuant to Section 25214.3, except  
14 as provided by Section 25192.

15 (8) All penalties recovered pursuant to Section 25214.22.1,  
16 except as provided by Section 25192.

17 (9) All penalties recovered pursuant to Section 25215.7, except  
18 as provided by Section 25192.

19 (10) Reimbursements for funds expended from the Toxic  
20 Substances Control Account for services provided by the  
21 department, including, but not limited to, reimbursements required  
22 pursuant to Sections 25201.9 and 25343.

23 (11) Money received from the federal government pursuant to  
24 the federal Comprehensive Environmental Response,  
25 Compensation, and Liability Act of 1980, as amended (42 U.S.C.  
26 Sec. 9601 et seq.).

27 (12) Money received from responsible parties for remedial  
28 action or removal at a specific site, except as otherwise provided  
29 by law.

30 (b) The funds deposited in the Toxic Substances Control  
31 Account may be appropriated to the department for the following  
32 purposes:

33 (1) The administration and implementation of the following:

34 (A) Chapter 6.8 (commencing with Section 25300), except that  
35 funds shall not be expended from the Toxic Substances Control  
36 Account for purposes of Section 25354.5.

37 (B) Chapter-6.85 6.86 (commencing with Section 25396).

38 (C) Article 10 (commencing with Section 7710) of Chapter 1  
39 of Division 4 of the Public Utilities Code, to the extent the

1 department has been delegated responsibilities by the secretary  
2 for implementing that article.

3 (D) Activities of the department related to pollution prevention  
4 and technology development, authorized pursuant to this chapter.

5 (2) The administration of the following units, and successor  
6 organizations of those units, within the department, and the  
7 implementation of programs administered by those units or  
8 successor organizations:

9 (A) The Human and Ecological Risk Division.

10 (B) The Environmental Chemistry Laboratory.

11 (C) The Office of Pollution Prevention and Technology  
12 Development.

13 (3) For allocation to the Office of Environmental Health Hazard  
14 Assessment, pursuant to an interagency agreement, to assist the  
15 department as needed in administering the programs described in  
16 subparagraphs (A) and (B) of paragraph (1).

17 (4) For allocation to the State Board of Equalization to pay  
18 refunds of fees collected pursuant to Section 43054 of the Revenue  
19 and Taxation Code.

20 (5) For the state share mandated pursuant to paragraph (3) of  
21 subsection (c) of Section 104 of the federal Comprehensive  
22 Environmental Response, Compensation, and Liability Act of  
23 1980, as amended (42 U.S.C. Sec. 9604(c)(3)).

24 (6) For the purchase by the state, or by a local agency with the  
25 prior approval of the director, of hazardous substance response  
26 equipment and other preparations for response to a release of  
27 hazardous substances. However, all equipment shall be purchased  
28 in a cost-effective manner after consideration of the adequacy of  
29 existing equipment owned by the state or the local agency, and the  
30 availability of equipment owned by private contractors.

31 (7) For payment of all costs of removal and remedial action  
32 incurred by the state, or by a local agency with the approval of the  
33 director, in response to a release or threatened release of a  
34 hazardous substance, to the extent the costs are not reimbursed by  
35 the federal Comprehensive Environmental Response,  
36 Compensation, and Liability Act of 1980, as amended (42 U.S.C.  
37 Sec. 9601 et seq.).

38 (8) For payment of all costs of actions taken pursuant to  
39 subdivision (b) of Section 25358.3, to the extent that these costs  
40 are not paid by the federal Comprehensive Environmental

1 Response, Compensation, and Liability Act of 1980, as amended  
2 (42 U.S.C. Sec. 9601 et seq.).

3 (9) For all costs incurred by the department in cooperation with  
4 the Agency for Toxic Substances and Disease Registry established  
5 pursuant to subsection (i) of Section 104 of the federal  
6 Comprehensive Environmental Response, Compensation, and  
7 Liability Act of 1980, as amended (42 U.S.C. Sec. 9604(i)) and  
8 all costs of health effects studies undertaken regarding specific  
9 sites or specific substances at specific sites. Funds appropriated  
10 for this purpose shall not exceed five hundred thousand dollars  
11 (\$500,000) in a single fiscal year. However, these actions shall not  
12 duplicate reasonably available federal actions and studies.

13 (10) For repayment of the principal of, and interest on, bonds  
14 sold pursuant to Article 7.5 (commencing with Section 25385) of  
15 Chapter 6.8.

16 ~~(11) For the reasonable and necessary administrative costs and~~  
17 ~~expenses of the Hazardous Substance Cleanup Arbitration Panel~~  
18 ~~created pursuant to Section 25356.2.~~

19 ~~(12)~~

20 (11) Direct site remediation costs.

21 ~~(13)~~

22 (12) For the department's expenses for staff to perform oversight  
23 of investigations, characterizations, removals, remediations, or  
24 long-term operation and maintenance.

25 ~~(14)~~

26 (13) For the administration and collection of the fees imposed  
27 pursuant to Section 25205.6.

28 ~~(15)~~

29 (14) For allocation to the office of the Attorney General,  
30 pursuant to an interagency agreement or similar mechanism, for  
31 the support of the Toxic Substance Enforcement Program in the  
32 office of the Attorney General, in carrying out the purposes of  
33 Chapter 6.8 (commencing with Section 25300) and Chapter 6.85  
34 6.86 (commencing with Section 25396).

35 ~~(16)~~

36 (15) For funding the California Environmental Contaminant  
37 Biomonitoring Program established pursuant to Chapter 8  
38 (commencing with Section 105440) of Part 5 of Division 103.

39 ~~(17)~~

1 (16) As provided in Sections 25214.3 and 25215.7 and, with  
2 regard to penalties recovered pursuant to Section 25214.22.1, to  
3 implement and enforce Article 10.4 (commencing with Section  
4 25214.11).

5 (c) The funds deposited in the Toxic Substances Control  
6 Account may be appropriated by the Legislature to the Office of  
7 Environmental Health Hazard Assessment and the State  
8 Department of Public Health for the purposes of carrying out their  
9 duties pursuant to the California Environmental Contaminant  
10 Biomonitoring Program (Chapter 8 (commencing with Section  
11 105440) of Part 5 of Division 103).

12 (d) The director shall expend federal funds in the Toxic  
13 Substances Control Account consistent with the requirements  
14 specified in Section 114 of the federal Comprehensive  
15 Environmental Response, Compensation, and Liability Act of  
16 1980, as amended (42 U.S.C. Sec. 9614), upon appropriation by  
17 the Legislature, for the purposes for which they were provided to  
18 the state.

19 (e) Money in the Toxic Substances Control Account shall not  
20 be expended to conduct removal or remedial actions if a significant  
21 portion of the hazardous substances to be removed or remedied  
22 originated from a source outside the state.

23 (f) The Director of Finance, upon request of the director, may  
24 make a loan from the General Fund to the Toxic Substances  
25 Control Account to meet cash needs. The loan shall be subject to  
26 the repayment provisions of Section 16351 of the Government  
27 Code and the interest provisions of Section 16314 of the  
28 Government Code.

29 (g) The Toxic Substances Control Account established pursuant  
30 to subdivision (a) is the successor fund of all of the following:

31 (1) The Hazardous Substance Account established pursuant to  
32 Section 25330, as that section read on June 30, 2006.

33 (2) The Hazardous Substance Clearing Account established  
34 pursuant to Section 25334, as that section read on June 30, 2006.

35 (3) The Hazardous Substance Cleanup Fund established pursuant  
36 to Section 25385.3, as that section read on June 30, 2006.

37 (4) The Superfund Bond Trust Fund established pursuant to  
38 Section 25385.8, as that section read on June 30, 2006.

39 (h) On and after July 1, 2006, all assets, liabilities, and surplus  
40 of the accounts and funds listed in subdivision (g), shall be

1 transferred to, and become a part of, the Toxic Substances Control  
2 Account, as provided by Section 16346 of the Government Code.  
3 All existing appropriations from these accounts, to the extent  
4 encumbered, shall continue to be available for the same purposes  
5 and periods from the Toxic Substances Control Account.

6 (i) Notwithstanding Section 10231.5 of the Government Code,  
7 the department, on or before February 1 of each year, shall report  
8 to the Governor and the Legislature on the prior fiscal year's  
9 expenditure of funds within the Toxic Substances Control Account  
10 for the purposes specified in subdivision (b).

11 *SEC. 32. Section 25173.7 of the Health and Safety Code is*  
12 *amended to read:*

13 25173.7. (a) It is the intent of the Legislature that funds  
14 deposited in the Toxic Substances Control Account shall be  
15 appropriated in the annual Budget Act each year in the following  
16 manner:

17 (1) Not less than six million seven hundred fifty thousand dollars  
18 (\$6,750,000) to the Site Remediation Account in the General Fund  
19 for direct site remediation costs, as defined in Section 25337. The  
20 amount specified in this paragraph shall be increased in any fiscal  
21 year by the amount of increased revenues specified by the  
22 Legislature in the Budget Act for that fiscal year pursuant to  
23 subdivision (g) of Section 25205.6.

24 (2) Not less than four hundred thousand dollars (\$400,000) to  
25 the Expedited Site Remediation Trust Fund in the State Treasury,  
26 created pursuant to subdivision (a) of Section 25399.1, for purposes  
27 of paying the orphan share of response costs pursuant to *former*  
28 Chapter 6.85 (commencing with Section 25396).

29 (3) An amount that does not exceed the costs incurred by the  
30 State Board of Equalization, a private party, or other public agency,  
31 to administer and collect the fees imposed pursuant to Article 9.1  
32 (commencing with Section 25205.1) and deposited into the Toxic  
33 Substances Control Account, for the purpose of reimbursing the  
34 State Board of Equalization, public agency, or private party, for  
35 those costs.

36 (4) Commencing with the 1999–2000 fiscal year and annually  
37 thereafter, not less than one million fifty thousand dollars  
38 (\$1,050,000) for purposes of establishing and implementing a  
39 program pursuant to Sections 25244.15.1, 25244.17.1, 25244.17.2,

1 25244.22, and 25244.24 to encourage hazardous waste generators  
2 to implement pollution prevention measures.

3 (5) Funds not appropriated as specified in paragraphs (1) to (4),  
4 inclusive, may be appropriated for any of the purposes specified  
5 in subdivision (b) of Section 25173.6, except the purposes specified  
6 in subparagraph (C) of paragraph (1) of, and paragraph ~~(14)~~ (13)  
7 of, subdivision (b) of Section 25173.6.

8 (b) (1) The amounts specified in paragraphs (1) to (3), inclusive,  
9 of subdivision (a) are the amounts that the Legislature intends to  
10 appropriate for the 1998–99 fiscal year for the purposes specified  
11 in those paragraphs, and the amount specified in paragraph (4) of  
12 subdivision (a) is the amount the Legislature intends to appropriate  
13 for the 1999–2000 fiscal year for the purposes specified in that  
14 paragraph. Beginning with the 1999–2000 fiscal year, and for each  
15 fiscal year thereafter, the amounts specified in paragraphs (1) to  
16 (3), inclusive, of subdivision (a), and beginning with the 2000–01  
17 fiscal year, and for each fiscal year thereafter, the amount specified  
18 in paragraph (4) of subdivision (a) shall be adjusted annually to  
19 reflect increases or decreases in the cost of living during the prior  
20 fiscal year, as measured by the Consumer Price Index issued by  
21 the Department of Industrial Relations or by a successor agency.

22 (2) Notwithstanding paragraph (1), the department may, upon  
23 the approval of the Legislature in a statute or the annual Budget  
24 Act, take either of the following actions:

25 (A) Reduce the amounts specified in paragraphs (1) to (4),  
26 inclusive, of subdivision (a), if there are insufficient funds in the  
27 Toxic Substances Control Account.

28 (B) Suspend the transfer specified in paragraph (2) of  
29 subdivision (a), if there are no orphan shares pending payment  
30 pursuant to *former* Chapter 6.85 (commencing with Section 25396).

31 *SEC. 33. Section 25174 of the Health and Safety Code is*  
32 *amended to read:*

33 25174. (a) There is in the General Fund the Hazardous Waste  
34 Control Account, which shall be administered by the director. In  
35 addition to any other money that may be deposited in the  
36 Hazardous Waste Control Account, pursuant to statute, all of the  
37 following amounts shall be deposited in the account:

38 (1) The fees collected pursuant to Sections 25174.1, 25205.2,  
39 25205.5, 25205.15, and 25205.16.



1 (2) The fees collected pursuant to Section 25187.2, to the extent  
2 that those fees are for the oversight of corrective action taken under  
3 this chapter.

4 (3) Any interest earned upon the money deposited in the  
5 Hazardous Waste Control Account.

6 (4) Any money received from the federal government pursuant  
7 to the federal act.

8 (5) Any reimbursements for funds expended from the Hazardous  
9 Waste Control Account for services provided by the department  
10 pursuant to this chapter, including, but not limited to, the  
11 reimbursements required pursuant to Sections 25201.9 and 25205.7.

12 (b) The funds deposited in the Hazardous Waste Control  
13 Account may be appropriated by the Legislature, for expenditure  
14 as follows:

15 (1) To the department for the administration and implementation  
16 of this chapter.

17 (2) To the department for allocation to the State Board of  
18 Equalization to pay refunds of fees collected pursuant to Sections  
19 43051 and 43053 of the Revenue and Taxation Code and for the  
20 administration and collection of the fees imposed pursuant to  
21 Article 9.1 (commencing with Section 25205.1) that are deposited  
22 into the Hazardous Waste Control Account.

23 (3) To the department for the costs of performance or review  
24 of analyses of past, present, or potential environmental public  
25 health effects related to toxic substances, including extremely  
26 hazardous waste, as defined in Section 25115, and hazardous waste,  
27 as defined in Section 25117.

28 (4) (A) To the department for allocation to the office of the  
29 Attorney General for the support of the Toxic Substance  
30 Enforcement Program in the office of the Attorney General, in  
31 carrying out the purposes of this chapter.

32 (B) On or before October 1 of each year, the Attorney General  
33 shall report to the Legislature on the expenditure of any funds  
34 allocated to the office of the Attorney General for the preceding  
35 fiscal year pursuant to this paragraph and paragraph ~~(15)~~ (14) of  
36 subdivision (b) of Section 25173.6. The report shall include all of  
37 the following:

38 (i) A description of cases resolved by the office of the Attorney  
39 General through settlement or court order, including the monetary  
40 benefit to the department and the state.

1 (ii) A description of injunctions or other court orders benefiting  
2 the people of the state.

3 (iii) A description of any cases in which the Attorney General's  
4 Toxic Substance Enforcement Program is representing the  
5 department or the state against claims by defendants or responsible  
6 parties.

7 (iv) A description of other pending litigation handled by the  
8 Attorney General's Toxic Substance Enforcement Program.

9 (C) Nothing in subparagraph (C) shall require the Attorney  
10 General to report on any confidential or investigatory matter.

11 (5) To the department for administration and implementation  
12 of Chapter 6.11 (commencing with Section 25404).

13 (c) (1) Expenditures from the Hazardous Waste Control  
14 Account for support of state agencies other than the department  
15 shall, upon appropriation by the Legislature to the department, be  
16 subject to an interagency agreement or similar mechanism between  
17 the department and the state agency receiving the support.

18 (2) The department shall, at the time of the release of the annual  
19 Governor's Budget, describe the budgetary amounts proposed to  
20 be allocated to the State Board of Equalization, as specified in  
21 paragraph (2) of subdivision (b) and in paragraph (3) of subdivision  
22 (b) of Section 25173.6, for the upcoming fiscal year.

23 (3) It is the intent of the Legislature that moneys appropriated  
24 in the annual Budget Act each year for the purpose of reimbursing  
25 the State Board of Equalization, a private party, or other public  
26 agency, for the administration and collection of the fees imposed  
27 pursuant to Article 9.1 (commencing with Section 25205.1) and  
28 deposited in the Hazardous Waste Control Account, shall not  
29 exceed the costs incurred by the State Board of Equalization, the  
30 private party, or other public agency, for the administration and  
31 collection of those fees.

32 (d) With respect to expenditures for the purposes of paragraphs  
33 (1) and (3) of subdivision (b) and paragraphs (1) and (2) of  
34 subdivision (b) of Section 25173.6, the department shall, at the  
35 time of the release of the annual Governor's Budget, also make  
36 available the budgetary amounts and allocations of staff resources  
37 of the department proposed for the following activities:

38 (1) The department shall identify, by permit type, the projected  
39 allocations of budgets and staff resources for hazardous waste

1 facilities permits, including standardized permits, closure plans,  
2 and postclosure permits.

3 (2) The department shall identify, with regard to surveillance  
4 and enforcement activities, the projected allocations of budgets  
5 and staff resources for the following types of regulated facilities  
6 and activities:

7 (A) Hazardous waste facilities operating under a permit or grant  
8 of interim status issued by the department, and generator activities  
9 conducted at those facilities. This information shall be reported  
10 by permit type.

11 (B) Transporters.

12 (C) Response to complaints.

13 (3) The department shall identify the projected allocations of  
14 budgets and staff resources for both of the following activities:

15 (A) The registration of hazardous waste transporters.

16 (B) The operation and maintenance of the hazardous waste  
17 manifest system.

18 (4) The department shall identify, with regard to site mitigation  
19 and corrective action, the projected allocations of budgets and staff  
20 resources for the oversight and implementation of the following  
21 activities:

22 (A) Investigations and removal and remedial actions at military  
23 bases.

24 (B) Voluntary investigations and removal and remedial actions.

25 (C) State match and operation and maintenance costs, by site,  
26 at joint state and federally funded National Priority List Sites.

27 (D) Investigation, removal and remedial actions, and operation  
28 and maintenance at the Stringfellow Hazardous Waste Site.

29 (E) Investigation, removal and remedial actions, and operation  
30 and maintenance at the Casmalia Hazardous Waste Site.

31 (F) Investigations and removal and remedial actions at  
32 nonmilitary, responsible party lead National Priority List Sites.

33 (G) Preremedial activities under the federal Comprehensive  
34 Environmental Response, Compensation, and Liability Act of 1980  
35 (42 U.S.C. Sec. 9601 et seq.).

36 (H) Investigations, removal and remedial actions, and operation  
37 and maintenance at state-only orphan sites.

38 (I) Investigations and removal and remedial actions at  
39 nonmilitary, non-National Priority List responsible party lead sites.

1 (J) Investigations, removal and remedial actions, and operation  
2 and maintenance at Expedited Remedial Action Program sites  
3 pursuant to *former* Chapter 6.85 (commencing with Section 25396).

4 (K) Corrective actions at hazardous waste facilities.

5 (5) The department shall identify, with regard to the regulation  
6 of hazardous waste, the projected allocation of budgets and staff  
7 resources for the following activities:

8 (A) Determinations pertaining to the classification of hazardous  
9 wastes.

10 (B) Determinations for variances made pursuant to Section  
11 25143.

12 (C) Other determinations and responses to public inquiries made  
13 by the department regarding the regulation of hazardous waste and  
14 hazardous substances.

15 (6) The department shall identify projected allocations of  
16 budgets and staff resources needed to do all of the following:

17 (A) Identify, remove, store, and dispose of, suspected hazardous  
18 substances or hazardous materials associated with the investigation  
19 of clandestine drug laboratories.

20 (B) Respond to emergencies pursuant to Section 25354.

21 (C) Create, support, maintain, and implement the railroad  
22 accident prevention and immediate deployment plan developed  
23 pursuant to Section 7718 of the Public Utilities Code.

24 (7) The department shall identify projected allocations of  
25 budgets and staff resources for the administration and  
26 implementation of the unified hazardous waste and hazardous  
27 materials regulatory program established pursuant to Chapter 6.11  
28 (commencing with Section 25404).

29 (8) The department shall identify the total cumulative  
30 expenditures of the Regulatory Structure Update and Site  
31 Mitigation Update projects since their inception, and shall identify  
32 the total projected allocations of budgets and staff resources that  
33 are needed to continue these projects.

34 (9) The department shall identify the total projected allocations  
35 of budgets and staff resources that are necessary for all other  
36 activities proposed to be conducted by the department.

37 (e) Notwithstanding this chapter, or Part 22 (commencing with  
38 Section 43001) of Division 2 of the Revenue and Taxation Code,  
39 for any fees, surcharges, fines, penalties, and funds that are required  
40 to be deposited into the Hazardous Waste Control Account or the

1 Toxic Substances Control Account, the department, with the  
2 approval of the Secretary for Environmental Protection, may take  
3 any of the following actions:

4 (1) Assume responsibility for, or enter into a contract with a  
5 private party or with another public agency, other than the State  
6 Board of Equalization, for the collection of any fees, surcharges,  
7 fines, penalties and funds described in subdivision (a) or otherwise  
8 described in this chapter or Chapter 6.8 (commencing with Section  
9 25300), for deposit into the Hazardous Waste Control Account or  
10 the Toxic Substances Control Account.

11 (2) Administer, or by mutual agreement, contract with a private  
12 party or another public agency, for the making of those  
13 determinations and the performance of functions that would  
14 otherwise be the responsibility of the State Board of Equalization  
15 pursuant to this chapter, Chapter 6.8 (commencing with Section  
16 25300), or Part 22 (commencing with Section 43001) of Division  
17 2 of the Revenue and Taxation Code, if those activities and  
18 functions for which the State Board of Equalization would  
19 otherwise be responsible become the responsibility of the  
20 department or, by mutual agreement, the contractor selected by  
21 the department.

22 (f) If, pursuant to subdivision (e), the department, or a private  
23 party or another public agency, pursuant to a contract with the  
24 department, performs the determinations and functions that would  
25 otherwise be the responsibility of the State Board of Equalization,  
26 the department shall be responsible for ensuring that persons who  
27 are subject to the fees specified in subdivision (e) have equivalent  
28 rights to public notice and comment, and procedural and  
29 substantive rights of appeal, as afforded by the procedures of the  
30 State Board of Equalization pursuant to Part 22 (commencing with  
31 Section 43001) of Division 2 of the Revenue and Taxation Code.  
32 Final responsibility for the administrative adjustment of fee rates  
33 and the administrative appeal of any fees or penalty assessments  
34 made pursuant to this section may only be assigned by the  
35 department to a public agency.

36 (g) If, pursuant to subdivision (e), the department, or a private  
37 party or another public agency, pursuant to a contract with the  
38 department, performs the determinations and functions that would  
39 otherwise be the responsibility of the State Board of Equalization,  
40 the department shall have equivalent authority to make collections

1 and enforce judgments as provided to the State Board of  
2 Equalization pursuant to Part 22 (commencing with Section 43001)  
3 of Division 2 of the Revenue and Taxation Code. Unpaid amounts,  
4 including penalties and interest, shall be a perfected and  
5 enforceable state tax lien in accordance with Section 43413 of the  
6 Revenue and Taxation Code.

7 (h) The department, with the concurrence of the Secretary for  
8 Environmental Protection, shall determine which administrative  
9 functions should be retained by the State Board of Equalization,  
10 administered by the department, or assigned to another public  
11 agency or private party pursuant to subdivisions (e), (f), and (g).

12 (i) The department may adopt regulations to implement  
13 subdivisions (e) to (h), inclusive.

14 (j) The Director of Finance, upon request of the director, may  
15 make a loan from the General Fund to the Hazardous Waste  
16 Control Account to meet cash needs. The loan shall be subject to  
17 the repayment provisions of Section 16351 of the Government  
18 Code and the interest provisions of Section 16314 of the  
19 Government Code.

20 (k) The department shall establish, within the Hazardous Waste  
21 Control Account, a reserve of at least one million dollars  
22 (\$1,000,000) each year to ensure that all programs funded by the  
23 Hazardous Waste Control Account will not be adversely affected  
24 by any revenue shortfalls.

25 *SEC. 34. Section 25185.5 of the Health and Safety Code is*  
26 *amended to read:*

27 25185.5. ~~In order to carry out~~ *For a property that is designated*  
28 *as a hazardous waste property or border zone property pursuant*  
29 *to the purposes of former Article 11 (commencing with Section*  
30 *25220), any an authorized representative of the department may,*  
31 *at any reasonable hour of the day, or as authorized pursuant to*  
32 *Title 13 (commencing with Section 1822.50) of Part 3 of the Code*  
33 *of Civil Procedure, enter and inspect any real property which that*  
34 *is within 2,000 feet of a deposit of hazardous waste or a hazardous*  
35 *waste property and do any of the following:*

36 (a) Obtain samples of the soil, vegetation, air, water, and biota  
37 on or beneath the land.

38 (b) Set up and maintain monitoring equipment for the purpose  
39 of assessing or measuring the actual or potential migration of  
40 hazardous wastes on, beneath, or toward the land.

1 (c) Survey and determine the topography and geology of the  
2 land.

3 (d) Photograph any equipment, sample, activity, or  
4 environmental condition described in subdivision (a), (b), or (c).  
5 The photographs shall be subject to the requirements of subdivision  
6 (d) of Section 25185.

7 (e) This section does not apply to any hazardous waste facility  
8 ~~which~~ *that* is required to be permitted pursuant to this chapter and  
9 ~~which~~ *that* is subject to inspection pursuant to Section 25185.

10 (f) An inspector who inspects pursuant to this section shall  
11 make a reasonable effort to inform the owner or his or her  
12 authorized representative of the inspection and shall provide split  
13 samples to the owner or representative upon request and shall  
14 comply with the provisions of subdivision (b) of Section 25185.

15 *SEC. 35. Section 25200.14 of the Health and Safety Code is*  
16 *amended to read:*

17 25200.14. (a) For purposes of this section, “phase I  
18 environmental assessment” means a preliminary site assessment  
19 based on reasonably available knowledge of the facility, including,  
20 but not limited to, historical use of the property, prior releases,  
21 visual and other surveys, records, consultant reports, and regulatory  
22 agency correspondence.

23 (b) (1) Except as provided in paragraph (2) and in subdivision  
24 (i), in implementing the requirements of Section 25200.10 for  
25 facilities operating pursuant to a permit-by-rule under the  
26 regulations adopted by the department regarding transportable  
27 treatment units and fixed treatment units, which are contained in  
28 Chapter 45 (commencing with Section 67450.1) of Division 4.5  
29 of Title 22 of the California Code of Regulations, or for generators  
30 operating pursuant to a grant of conditional authorization under  
31 Section 25200.3, the department or the unified program agency  
32 authorized to implement this section pursuant to Section 25404.1  
33 shall require the owner or operator of the facility or the generator  
34 to complete and file a phase I environmental assessment with the  
35 department or the authorized unified program agency not later than  
36 one year from the date of adoption of the checklist specified in  
37 subdivision (f), but not later than January 1, 1997, or one year from  
38 the date that the facility or generator becomes authorized to operate,  
39 whichever date is later. After submitting a phase I environmental  
40 assessment, the owner or operator of the facility or the generator

1 shall subsequently submit to the department or the authorized  
2 unified program agency, during the next regular reporting period,  
3 if any, updated information obtained by the facility owner or  
4 operator or the generator concerning releases subsequent to the  
5 submission of the phase I environmental assessment.

6 (2) Paragraph (1) does not apply to a facility owner or operator  
7 that is conducting, or has conducted, a site assessment of the entire  
8 facility or to a generator that is conducting, or has conducted, a  
9 site assessment of the entire facility of the generator in accordance  
10 with an order issued by a California regional water quality control  
11 board or any other state or federal environmental enforcement  
12 agency.

13 (c) An assessment~~which~~ *that* would otherwise meet the  
14 requirements of this section that is prepared for another purpose  
15 and was completed not more than three years prior to the date by  
16 which the facility owner or operator or the generator is required  
17 to submit a phase I environmental assessment may be used to  
18 comply with this section if the assessment is supplemented by any  
19 relevant updated information reasonably available to the facility  
20 owner or operator or to the generator.

21 (d) The department or the unified program agency authorized  
22 to implement this section pursuant to Section 25404.1 shall not  
23 require sampling or testing as part of the phase I environmental  
24 assessment. A phase I environmental assessment shall be certified  
25 by the facility owner or operator or by the generator, or by their  
26 designee, or by a certified professional engineer, or a geologist,  
27 or ~~a registered~~ *an* environmental assessor. The phase I  
28 environmental assessment shall indicate whether the preparer  
29 believes that further investigation, including sampling and analysis,  
30 is necessary to determine whether a release has occurred, or to  
31 determine the extent of a release from a solid waste management  
32 unit or hazardous waste management unit.

33 (e) (1) If the results of a phase I environmental assessment  
34 conducted pursuant to subdivision (b) indicate that further  
35 investigation is needed to determine the existence or extent of a  
36 release from a solid waste management unit or hazardous waste  
37 management unit, the facility owner or operator or the generator  
38 shall submit a schedule, within 90 days from the date of submission  
39 of the phase I environmental assessment, for that further  
40 investigation to the department or to the unified program agency



1 authorized to implement this section pursuant to Section 25404.1.  
2 If the department or the authorized unified program agency  
3 determines, based upon a review of the phase I environmental  
4 assessment or other site-specific information in its possession, that  
5 further investigation is needed to determine the existence or extent  
6 of a release from a solid waste management unit or hazardous  
7 waste management unit, in addition to any further action proposed  
8 by the facility owner or operator or the generator, or determines  
9 that a different schedule is necessary to prevent harm to human  
10 health and safety or to the environment, the department or the  
11 authorized unified program agency shall inform the facility owner  
12 or operator or the generator of that determination and shall set a  
13 reasonable time period in which to accomplish that further  
14 investigation.

15 (2) In determining if a schedule is acceptable for investigation  
16 or remediation of any facility or generator subject to this section,  
17 the department may require more expeditious action if the  
18 department determines that hazardous constituents are mobile and  
19 are likely moving toward, or have entered, a source of drinking  
20 water, as defined by the State Water Resources Control Board, or  
21 determines that more expeditious action is otherwise necessary to  
22 protect human health or safety or the environment. To the extent  
23 that the department determines that the hazardous constituents are  
24 relatively immobile, or that more expeditious action is otherwise  
25 not necessary to protect public health or safety or the environment,  
26 the department may allow a longer schedule to allow the facility  
27 or generator to accumulate a remediation fund, or other financial  
28 assurance mechanism, prior to taking corrective action.

29 (3) If a facility owner or operator or the generator is conducting  
30 further investigation to determine the nature or extent of a release  
31 pursuant to, and in compliance with, an order issued by a California  
32 regional water quality control board or other state or federal  
33 environmental enforcement agency, the department or the  
34 authorized unified program agency shall deem that investigation  
35 adequate for the purposes of determining the nature and extent of  
36 the release or releases that the order addressed, as the investigation  
37 pertains to the jurisdiction of the ordering agency.

38 (f) The department shall develop a checklist to be used by  
39 facility owners or operators and generators in conducting a phase  
40 I environmental assessment. The development and publication of

1 the checklist is not subject to Chapter 3.5 (commencing with  
2 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
3 Code. The department shall hold at least one public workshop  
4 concerning the development of the checklist. The checklist shall  
5 not exceed the phase I requirements adopted by the American  
6 Society for Testing and Materials (ASTM) for due diligence for  
7 commercial real estate transactions. The department shall deem  
8 compliance with those ASTM standards, or compliance with the  
9 checklist developed and published by the department, as meeting  
10 the phase I environmental assessment requirements of this section.

11 (g) A facility, or to the extent required by the regulations adopted  
12 by the department, a transportable treatment unit, operating  
13 pursuant to a permit-by-rule shall additionally comply with the  
14 remaining corrective action requirements specified in Section  
15 67450.7 of Title 22 of the California Code of Regulations, in effect  
16 on January 1, 1992.

17 (h) A generator operating pursuant to a grant of conditional  
18 authorization pursuant to Section 25200.3 shall additionally comply  
19 with paragraph (3) of subdivision (c) of Section 25200.3.

20 (i) The department or the authorized unified program agency  
21 shall not require a phase I environmental assessment for those  
22 portions of a facility subject to a corrective action order issued  
23 pursuant to Section 25187, a cleanup and abatement order issued  
24 pursuant to Section 13304 of the Water Code, or a corrective action  
25 required under subsection (u) of Section 6924 of Title 42 of the  
26 United States Code or subsection (h) of Section 6928 of Title 42  
27 of the United States Code.

28 *SEC. 36. Section 25201.6 of the Health and Safety Code is*  
29 *amended to read:*

30 25201.6. (a) For purposes of this section and Section 25205.2,  
31 the following terms have the following meaning:

32 (1) "Series A standardized permit" means a permit issued to a  
33 facility that meets one or more of the following conditions:

34 (A) The total influent volume of liquid hazardous waste treated  
35 is greater than 50,000 gallons per calendar month.

36 (B) The total volume of solid hazardous waste treated is greater  
37 than 100,000 pounds per calendar month.

38 (C) The total facility storage design capacity is greater than  
39 500,000 gallons for liquid hazardous waste.

1 (D) The total facility storage design capacity is greater than 500  
2 tons for solid hazardous waste.

3 (E) A volume of liquid or solid hazardous waste is stored at the  
4 facility for more than one calendar year.

5 (2) “Series B standardized permit” means a permit issued to a  
6 facility that does not store liquid or solid hazardous waste for a  
7 period of more than one calendar year, that does not exceed any  
8 of the upper volume limits specified in subparagraphs (A) to (D),  
9 inclusive, and that meets one or more of the following conditions:

10 (A) The total influent volume of liquid hazardous waste treated  
11 is greater than 5,000 gallons, but does not exceed 50,000 gallons,  
12 per calendar month.

13 (B) The total volume of solid hazardous waste treated is greater  
14 than 10,000 pounds, but does not exceed 100,000 pounds, per  
15 calendar month.

16 (C) The total facility storage design capacity is greater than  
17 50,000 gallons, but does not exceed 500,000 gallons, for liquid  
18 hazardous waste.

19 (D) The total facility storage design capacity is greater than  
20 100,000 pounds, but does not exceed 500 tons, for solid hazardous  
21 waste.

22 (3) “Series C standardized permit” means a permit issued to a  
23 facility that does not store liquid or solid hazardous waste for a  
24 period of more than one calendar year, that does not conduct  
25 thermal treatment of hazardous waste, with the exception of  
26 evaporation, and that either meets the requirements of paragraph  
27 (3) of subdivision (g) or meets all of the following conditions:

28 (A) The total influent volume of liquid hazardous waste treated  
29 does not exceed 5,000 gallons per calendar month.

30 (B) The total volume of solid hazardous waste treated does not  
31 exceed 10,000 pounds per calendar month.

32 (C) The total facility storage design capacity does not exceed  
33 50,000 gallons for liquid hazardous waste.

34 (D) The total facility storage design capacity does not exceed  
35 100,000 pounds for solid hazardous waste.

36 (b) The department shall adopt regulations specifying  
37 standardized hazardous waste facilities permit application forms  
38 that may be completed by a non-RCRA Series A, B, or C treatment,  
39 storage, or treatment and storage facility, in lieu of other hazardous  
40 waste facilities permit application procedures set forth in

1 regulations. The department shall not issue permits under this  
2 section to specific classes of facilities unless the department finds  
3 that doing so will not create a competitive disadvantage to a  
4 member or members of that class that were in compliance with  
5 the permitting requirements which were in effect on September 1,  
6 1992.

7 (c) The regulations adopted pursuant to subdivision (b) shall  
8 include all of the following:

9 (1) Require that the standardized permit notification be  
10 submitted to the department on or before October 1, 1993, for  
11 facilities existing on or before September 1, 1992, except for  
12 facilities specified in paragraphs (2) and (3) of subdivision (g).  
13 The standardized permit notification shall include, at a minimum,  
14 the information required for a Part A application as described in  
15 the regulations adopted by the department.

16 (2) Require that the standardized permit application be submitted  
17 to the department within six months of the submittal of the  
18 standardized permit notification. The standardized permit  
19 application shall require, at a minimum, that the following  
20 information be submitted to the department for review prior to the  
21 final permit determination:

22 (A) A description of the treatment and storage activities to be  
23 covered by the permit, including the type and volumes of waste,  
24 the treatment process, equipment description, and design capacity.

25 (B) A copy of the closure plan as required by paragraph (13) of  
26 subdivision (b) of Section 66270.14 of Title 22 of the California  
27 Code of Regulations.

28 (C) A description of the corrective action program, as required  
29 by Section 25200.10.

30 (D) Financial responsibility documents specified in paragraph  
31 (17) of subdivision (b) of Section 66270.14 of Title 22 of the  
32 California Code of Regulations.

33 (E) A copy of the topographical map as specified in paragraph  
34 (18) of subdivision (b) of Section 66270.14 of Title 22 of the  
35 California Code of Regulations.

36 (F) A description of the individual container, and tank and  
37 containment system, and of the engineer's certification, as specified  
38 in Sections 66270.15 and 66270.16 of Title 22 of the California  
39 Code of Regulations.

1 (G) Documentation of compliance, if applicable, with the  
2 requirements of Article 8.7 (commencing with Section 25199).

3 (3) Require that a facility operating pursuant to a standardized  
4 permit comply with the liability assurance requirements in Section  
5 25200.1.

6 (4) Specify which of the remaining elements of the permit  
7 application, as described in subdivision (b) of Section 66270.14  
8 of Title 22 of the California Code of Regulations, shall be the  
9 subject of a certification of compliance by the applicant.

10 (5) Establish a procedure for imposing an administrative penalty  
11 pursuant to Section 25187, in addition to any other penalties  
12 provided by this chapter, upon an owner or operator of a treatment  
13 or storage facility that is required to obtain a hazardous waste  
14 facilities permit and that meets the criteria for a Series A, B, or C  
15 permit listed in subdivision (a), who does not submit a standardized  
16 permit notification to the department on or before the submittal  
17 deadline specified in paragraph (1) or the submittal deadline  
18 specified in paragraph (2) or (3) of subdivision (g), whichever date  
19 is applicable, and who continues to operate the facility without  
20 obtaining a hazardous waste facilities permit or other grant of  
21 authorization from the department after the applicable deadline  
22 for submitting the notification to the department. In determining  
23 the amount of the administrative penalty to be assessed, the  
24 regulations shall require the amount to be based upon the economic  
25 benefit gained by that owner or operator as a result of failing to  
26 comply with this section.

27 (6) Require that a facility operating pursuant to a standardized  
28 permit comply, at a minimum, with the interim status facility  
29 operating requirements specified in the regulations adopted by the  
30 department, except that the regulations adopted pursuant to this  
31 section may specify financial assurance amounts necessary to  
32 adequately respond to damage claims at levels that are less than  
33 those required for interim status facilities if the department  
34 determines that lower financial assurance levels are appropriate.

35 (d) (1) Any regulations adopted pursuant to this section may  
36 be adopted as emergency regulations in accordance with Chapter  
37 3.5 (commencing with Section 11340) of Part 1 of Division 3 of  
38 Title 2 of the Government Code.

39 (2) On and before January 1, 1995, the adoption of the  
40 regulations pursuant to paragraph (1) is an emergency and shall

1 be considered by the Office of Administrative Law as necessary  
2 for the immediate preservation of the public peace, health and  
3 safety, and general welfare.

4 (e) The department may not grant a permit under this section  
5 unless the department has determined the adequacy of the material  
6 submitted with the application and has conducted an inspection of  
7 the facility and determined all of the following:

8 (1) The treatment process is an effective method of treating the  
9 waste, as described in the permit application.

10 (2) The corrective action plan is appropriate for the facility.

11 (3) The financial assurance is sufficient for the facility.

12 (f) (1) Interim status shall not be granted to a facility that does  
13 not submit a standardized permit notification on or before October  
14 1, 1993, unless the facility is subject to paragraph (2) or (3) of  
15 subdivision (g).

16 (2) Interim status shall be revoked if the permit application is  
17 not submitted within six months of the permit notification.

18 (3) Interim status granted to any facility pursuant to this section  
19 and Sections 25200.5 and 25200.9 shall terminate upon a final  
20 permit determination or January 1, 1998, whichever date is earlier.  
21 This paragraph shall apply retroactively to facilities for which a  
22 final permit determination is made on or after September 30, 1995.

23 (4) A treatment, storage, or treatment and storage facility  
24 operating pursuant to interim status that applies for a permit  
25 pursuant to this section shall pay fees to the department in an  
26 amount equal to the fees established by subdivision (e) of Section  
27 25205.4 for the same size and type of facility.

28 (g) (1) Except as provided in paragraphs (2), (3), and (4), a  
29 facility treating used oil or solvents, or that engages in incineration,  
30 thermal destruction, or any land disposal activity, is not eligible  
31 for a standardized permit pursuant to this section.

32 (2) (A) Notwithstanding paragraph (1), an offsite facility  
33 treating solvents is eligible for a standardized permit pursuant to  
34 this section if all of the following conditions are met:

35 (i) The facility exclusively treats solvent wastes, and is not  
36 required to obtain a permit pursuant to the federal act.

37 (ii) The solvent wastes that the facility treats are only the types  
38 of solvents generated from dry cleaning operations.

39 (iii) Ninety percent or more of the solvents that the facility  
40 receives are from dry cleaning operations.

1 (iv) Ninety percent or more of the solvents that the facility  
2 receives are recycled and sold by the facility, excluding recycling  
3 for energy recovery, provided that the facility does not produce  
4 more than 15,000 gallons per month of recycled solvents.

5 (B) A facility that is eligible for a standardized permit pursuant  
6 to this paragraph is also eligible for the fee exemption provided  
7 in subdivision (d) of Section 25205.12 for any year or reporting  
8 period prior to January 1, 1995, if the owner or operator complies  
9 with the notification and application requirements of this section  
10 on or before March 1, 1995.

11 (C) A facility treating solvents pursuant to this paragraph shall  
12 clearly label all recycled solvents as recycled prior to subsequent  
13 sale or distribution.

14 (D) Notwithstanding that a facility eligible for a standardized  
15 permit pursuant to this paragraph meets the eligibility requirements  
16 for a Series C standardized permit specified in paragraph (3) of  
17 subdivision (a), the facility shall obtain and meet the requirements  
18 for a Series B standardized permit specified in paragraph (2) of  
19 subdivision (a).

20 (E) Notwithstanding any other provision of this chapter, for  
21 purposes of this paragraph, if the recycled material is to be used  
22 for dry cleaning, "recycled" means the removal of water and  
23 inhibitors from waste solvent and the production of dry cleaning  
24 solvent with an appropriate inhibitor for dry cleaning use. The  
25 removal of inhibitors is not required if all of the solvents received  
26 by the facility that are recycled for dry cleaning use are from dry  
27 cleaners.

28 (3) (A) Notwithstanding paragraph (1), an owner or operator  
29 with a surface impoundment used only to contain non-RCRA  
30 wastes generated onsite, that holds those wastes for not more than  
31 one 30-day period in any calendar year, and that meets the criteria  
32 specified in paragraphs (i) to (iii), inclusive, may submit a Series  
33 C standardized permit application to the department. A surface  
34 impoundment is eligible for operation under the Series C  
35 standardized permit tier if all of the following requirements are  
36 met:

37 (i) The waste and any residual materials are removed from the  
38 surface impoundment within 30 days of the date the waste was  
39 first placed into the surface impoundment.

(ii) The owner or operator has, and is in compliance with, current waste discharge requirements issued by the appropriate California regional water quality control board for the surface impoundment.

(iii) The owner or operator complies with all applicable groundwater monitoring requirements of the regulations adopted by the department pursuant to this chapter.

(B) A facility that is eligible for a standardized permit pursuant to this paragraph is also eligible for the fee exemption provided in subdivision (d) of Section 25205.12 for any year or reporting period prior to January 1, 1996, if the owner or operator complies with the notification and application requirements of this section on or before March 1, 1996.

(4) For purposes of this subdivision, treating solvents and thermal destruction do not include the destruction of nonmetal constituents in a thermal treatment unit that is operated solely for the purpose of the recovery of precious metals, if that unit is operating pursuant to a standardized permit issued by the department and the unit is in compliance with the applicable requirements of Division 26 (commencing with Section 39000). This paragraph does not prohibit the department from specifying, in the standardized permit for such a unit, a maximum concentration of nonmetal constituents, if the department determines that this requirement is necessary for protection of human health or safety or the environment.

(h) Facilities operating pursuant to this section shall comply with Article 4 (commencing with Section 66270.40) of Chapter 20 of Division 4.5 of Title 22 of the California Code of Regulations.

(i) (1) The department shall require an owner or operator applying for a standardized permit to complete and file a phase I environmental assessment with the application. However, if a RCRA facility assessment has been performed by the department, the assessment shall be deemed to satisfy the requirement of this subdivision to complete and file a phase I environmental assessment, and the facility shall not be required to submit a phase I environmental assessment with its application.

(2) (A) For purposes of this subdivision, the phase I environmental assessment shall include a preliminary site assessment, as described in subdivision (a) of Section 25200.14, except that the phase I environmental assessment shall also include



1 a certification, signed, except as provided in subparagraph (B), by  
2 the owner, and also by the operator if the operator is not the owner,  
3 of the facility and an independent professional ~~engineer, geologist,~~  
4 ~~engineer or environmental assessor~~ *geologist* registered in the  
5 ~~state, state, or environmental assessor.~~

6 (B) Notwithstanding subparagraph (A), the certification for a  
7 permanent household waste collection facility may be signed by  
8 any professional ~~engineer, geologist, engineer or environmental~~  
9 ~~assessor~~ *geologist* registered in ~~the~~ *this* state, ~~or environmental~~  
10 ~~assessor,~~ including, but not limited to, such a person employed by  
11 the governmental entity, but if the facility owner is not a  
12 governmental entity, the engineer, geologist, or assessor signing  
13 the certification shall not be employed by, or be an agent of, the  
14 facility owner.

15 (3) The certification specified in paragraph (2) shall state  
16 whether evidence of a release of hazardous waste or hazardous  
17 constituents has been found.

18 (4) If evidence of a release has been found, the facility shall  
19 complete a detailed site assessment to determine the nature and  
20 extent of any contamination resulting from the release and shall  
21 submit a corrective action plan to the department, within one year  
22 of submittal of the standardized permit application.

23 (j) The department shall establish an inspection program to  
24 identify, inspect, and bring into compliance any treatment, storage,  
25 or treatment and storage facility that is eligible for, and is required  
26 to obtain, a standardized hazardous waste facilities permit pursuant  
27 to this section, and that is operating without a permit or other grant  
28 of authorization from the department for that treatment or storage  
29 activity.

30 (k) A treatment, storage, or treatment and storage facility  
31 authorized to operate pursuant to a hazardous waste facilities permit  
32 issued pursuant to Section 25200, that meets the criteria listed in  
33 subdivision (a) for a standardized permit, may operate pursuant to  
34 a Series A, B, or C standardized permit by completing the  
35 appropriate permit modification procedure specified in the  
36 regulations for such a modification.

37 *SEC. 37. Section 25202.5 of the Health and Safety Code is*  
38 *amended to read:*

39 25202.5. (a) With respect to any hazardous waste facility  
40 permitted pursuant to Section 25200 or granted interim status

1 pursuant to Section 25200.5, the department may do either of the  
2 following:

3 (1) Enter into an agreement with the owner of the hazardous  
4 waste facility that requires the execution and recording of a written  
5 instrument ~~which~~ *that* imposes an easement, covenant, restriction,  
6 or servitude upon the present and future uses of all or part of the  
7 land on which the hazardous waste facility subject to the permit  
8 or grant of interim status is located and on all or part of any  
9 adjacent land held by, or for the beneficial use of, the owners of  
10 the land on which the hazardous waste facility subject to the permit  
11 or grant of interim status is located.

12 (2) Impose a requirement upon the owner of the hazardous waste  
13 facility, by permit modification, permit condition, or otherwise,  
14 that requires the execution and recording of a written instrument  
15 ~~which~~ *that* imposes an easement, covenant, restriction, or servitude  
16 upon the present and future uses of all or part of the land on which  
17 the hazardous waste facility subject to the permit or grant of interim  
18 status is located and on all or part of any adjacent land held by, or  
19 for the beneficial use of, the owners of the land on which the  
20 hazardous waste facility subject to the permit or grant of interim  
21 status is located.

22 (b) (1) The easement, covenant, restriction, or servitude  
23 imposed pursuant to subdivision (a) shall be no more restrictive  
24 than needed, as determined by the department, to protect the present  
25 or future public health and safety and shall not place any restriction  
26 on any land that limits the use, modification, or expansion of an  
27 existing industrial or manufacturing facility or complex. The  
28 instrument shall be executed by all of the owners of the land and  
29 by the director, shall particularly describe the real property affected  
30 by the instrument, and shall be recorded by the owner in the office  
31 of the county recorder in each county in which all, or a portion of,  
32 the land is located within 10 days of the date of execution. The  
33 easement, covenant, restriction, or servitude shall state that the  
34 land described in the instrument has been, or will be, the site of a  
35 hazardous waste facility or is adjacent to the site of such a facility,  
36 and may impose those use restrictions as the department deems  
37 necessary to protect the present or future public health. The  
38 restrictions may include restrictions upon activities on, over, or  
39 under the land, including, but not limited to, a prohibition against

1 building, filling, grading, excavating, or mining without the written  
2 permission of the director.

3 **A**

4 (2) A certified copy of the recorded easement, covenant,  
5 restriction, or servitude shall be sent to the department upon  
6 recordation. Notwithstanding any other ~~provision of~~ law, except  
7 as provided in Section 25202.6, an easement, covenant, restriction,  
8 or servitude executed pursuant to this section and recorded so as  
9 to provide constructive notice shall run with the land from the date  
10 of recordation and shall be binding upon all of the owners of the  
11 land, their heirs, successors, and assignees, and the agents,  
12 employees, and lessees of the owners, heirs, successors, and  
13 assignees. The easement, covenant, restriction, or servitude shall  
14 be enforceable by the department pursuant to Article 8  
15 (commencing with Section 25180).

16 (c) Except as provided in subdivisions (d) and (e), any land on  
17 which is located a hazardous waste disposal facility permitted  
18 pursuant to this chapter shall be surrounded by a minimum buffer  
19 zone of 2,000 feet between the facility and the outer boundary of  
20 the buffer zone. The department may impose an easement,  
21 covenant, restriction, or servitude, or any combination thereof, as  
22 appropriate, on the buffer zone pursuant to subdivision (a). If the  
23 department determines that a buffer zone of more than 2,000 feet  
24 is necessary to protect the present and future public health and  
25 safety, the department may increase the buffer zone by restricting  
26 the disposal of hazardous waste at that facility to land surrounded  
27 by a larger buffer zone.

28 (d) Subdivision (c) does not apply to ~~any hazardous waste~~  
29 ~~property, as defined in paragraph (1) of subdivision (a) of Section~~  
30 ~~25117.3, which a property that~~ was actually and lawfully used for  
31 the disposal of hazardous waste on August 6, 1980.

32 (e) If the owner of a hazardous waste disposal facility proves  
33 to the satisfaction of the department that a buffer zone of less than  
34 2,000 feet is sufficient to protect the present and future public  
35 health and safety, the department may allow the disposal of  
36 hazardous waste onto land surrounded by a buffer zone of less  
37 than 2,000 feet.

38 *SEC. 38. Article 11 (commencing with Section 25220) of*  
39 *Chapter 6.5 of Division 20 of the Health and Safety Code is*  
40 *repealed.*

1 SEC. 39. Article 11.1 (commencing with Section 25220) is  
2 added to Chapter 6.5 of Division 20 of the Health and Safety Code,  
3 to read:

4  
5 Article 11.1. Institutional Control  
6

7 25220. (a) The department shall notify the planning and  
8 building department of each city, county, or regional council of  
9 governments of any recorded land use restriction imposed within  
10 the jurisdiction of the local agency pursuant to the former Section  
11 25229, 25230, or 25398.7, as those sections read prior to the  
12 effective date of this article, or Section 25202.5, 25221, or 25355.5.  
13 Upon receiving this notification, the planning and building  
14 department shall do both of the following:

15 (1) File all recorded land use restrictions in the property files  
16 of the city, county, or regional council of government.

17 (2) Require that a person requesting a land use that differs from  
18 those filed land use restrictions on the property apply to the  
19 department for a variance or a removal of the land use restrictions  
20 pursuant to Section 25223 or 25224.

21 (b) A planning and building department of a city, county, or  
22 regional council of governments may assess a property owner a  
23 reasonable fee to cover the costs of taking the actions required by  
24 subdivision (a). For purposes of this subdivision, "property owner"  
25 does not include a person who holds evidence of ownership solely  
26 to protect a security interest in the property, unless the person  
27 participates, or has a legal right to participate, in the management  
28 of the property.

29 (c) The department shall maintain a list of all recorded land  
30 use restrictions, including deed restrictions, recorded pursuant to  
31 the former Sections 25229, 25230, and 25398.7, as those sections  
32 read prior to the effective date of this article, and Sections 25202.5,  
33 25221, and 25355.5. The list shall, at a minimum, provide the  
34 street address, or, if a street address is not available, an equivalent  
35 description of location for a rural location or the latitude and  
36 longitude of each property. The department shall update the list  
37 as new deed restrictions are recorded. The department shall make  
38 the list available to the public, upon request, and shall make the  
39 list available on the department's Internet Web site. The list shall

1 also be incorporated into the list of sites compiled pursuant to  
2 Section 65962.5 of the Government Code.

3 25221. A person may enter into an agreement with the  
4 department regarding his or her property, or a portion thereof,  
5 which provides for restricting specified uses of the property, as  
6 determined by all parties to the agreement. Except as otherwise  
7 provided in this article, the agreement is irrevocable and shall be  
8 recorded by the owner, pursuant to paragraph (1) of subdivision  
9 (a) of Section 25220, as a hazardous waste easement, covenant,  
10 restriction, or servitude, or any combination of those servitudes,  
11 as appropriate, upon the present and future uses of the land. That  
12 person shall bear all costs incurred in determining the specific  
13 land use restrictions for his or her property, or a portion of the  
14 property pursuant to this subdivision.

15 25222. Public notice of an agreement proposed to be entered  
16 into pursuant to Section 25221 shall be provided by the department  
17 at least 30 days before a hearing on, or execution of, the  
18 agreement. The notice shall be given by publication once in a  
19 newspaper of general circulation published and circulated in the  
20 locale or, if there is none, by posting the notice in at least three  
21 public places in the locale. In the case of a proposed agreement,  
22 the department shall also give notice to the city or county in whose  
23 jurisdiction the property is located. Public comment on the  
24 proposed agreement entered into pursuant to Section 25221 shall  
25 be submitted to the department in writing.

26 25223. (a) A person may apply to the department for a written  
27 variance from a land use restriction imposed by the department.  
28 An application shall contain sufficient evidence for the department  
29 to issue a notice for a hearing. The notice shall contain both of  
30 the following:

31 (1) A statement of all of the following that apply:

32 (A) Land use restrictions have been imposed on the land.

33 (B) A hearing is pending on the land.

34 (2) A statement of who is applying for a variance, the proposed  
35 variance, and a statement of the reasons in support of the granting  
36 of a variance.

37 (b) The procedures for the conducting of the hearing specified  
38 in subdivision (a) are those set forth in former Article 11  
39 (commencing with Section 25220) of Chapter 6.5 of Division 20.  
40 A person shall not make a subsequent application pursuant to this

1 section within 18 months of a final decision on an application by  
2 the department. A person applying for a variance pursuant to this  
3 section shall pay the department for all costs incurred by the  
4 department relating to the application.

5 (c) The applicant shall have the burden of proving at the hearing  
6 that the variance will not cause or allow any of the following effects  
7 associated with hazardous waste or extremely hazardous waste:

8 (1) The creation or increase of significant present or future  
9 hazards to public health.

10 (2) A significant diminution of the ability to mitigate any  
11 significant potential or actual hazard to public health.

12 (3) A long-term increase in the number of humans or animals  
13 exposed to significant hazards that affect the health, well-being,  
14 or safety of the public.

15 (d) If, upon the preponderance of the testimony taken, the  
16 director is of the opinion that the variance should be granted, the  
17 director shall issue and cause to be served his or her decision and  
18 findings of fact on the owner of the land, the legislative body of  
19 the city or county in whose jurisdiction the land is located, and  
20 upon any other persons who were permitted to intervene in the  
21 proceedings. The findings of fact shall include the exact nature of  
22 the proposed variance and the reasons in support of the granting  
23 of the variance.

24 (e) If the director is of the opinion that the variance should not  
25 be granted, the director shall issue and cause to be served his or  
26 her findings of fact in support of the denial on the parties specified  
27 in subdivision (d).

28 (f) The department shall record within 10 days any final decision  
29 made by the director pursuant to this section as provided in Section  
30 25225.

31 (g) A decision of the director made after a hearing held pursuant  
32 to this section shall be reviewable pursuant to Section 1094.5 of  
33 the Code of Civil Procedure and shall be upheld if the court finds  
34 that it is supported by substantial evidence.

35 25224. (a) A person may apply to the department to remove  
36 a land use restriction imposed by the department on the grounds  
37 that the waste no longer creates a significant existing or potential  
38 hazard to present or future public health or safety. A person shall  
39 not make a subsequent application pursuant to this section within  
40 12 months of a final decision on an application by the department.

1 *A person applying to the department pursuant to this section shall*  
2 *pay the department all costs incurred by the department relating*  
3 *to the application. An application shall contain sufficient evidence*  
4 *for the department to make a finding upon any or all of the*  
5 *following grounds:*

6 *(1) The hazardous waste that caused the land to be restricted*  
7 *or designated has since been removed or altered in a manner that*  
8 *precludes any significant existing or potential hazard to present*  
9 *or future public health.*

10 *(2) New scientific evidence is available since the restriction or*  
11 *designation of the land or the making of any previous application*  
12 *pursuant to this section, concerning either of the following:*

13 *(A) The nature of the hazardous waste that caused the land to*  
14 *be designated.*

15 *(B) The geology or other physical environmental characteristics*  
16 *of the designated land.*

17 *(b) An aggrieved person may appeal a determination of the*  
18 *department made pursuant to subdivision (a) by submitting a*  
19 *request for a hearing to the director. The request shall be mailed*  
20 *by certified mail not later than 30 days after the date of the mailing*  
21 *of the department's decision on the application.*

22 *(c) Upon receipt of a timely appeal, the director shall give notice*  
23 *of a hearing pursuant to the procedures set forth in this article.*

24 *(d) The department shall record within 10 days any new and*  
25 *final determination made by the department pursuant to this section*  
26 *as provided in Section 25225.*

27 *(e) A determination made by the department, after a hearing*  
28 *held pursuant to this section, shall be reviewable pursuant to*  
29 *Section 1094.5 of the Code of Civil Procedure and shall be upheld*  
30 *if the court finds that it is supported by substantial evidence.*

31 *(f) Whenever there is a final determination pursuant to this*  
32 *section removing a land use restriction, the easement, covenant,*  
33 *restriction, or servitude imposed on the land created by Section*  
34 *25221 or 25355.5 or the former Section 25222.1 or 25230 shall*  
35 *automatically terminate. The department shall record or cause to*  
36 *be recorded within 10 days a termination of the easement,*  
37 *covenant, restriction, or servitude, which shall particularly*  
38 *describe the real property subject to the easement, covenant,*  
39 *restriction, or servitude and shall be indexed by the recorder in*  
40 *the grantee index in the name of the record title owner of the real*

1 *property subject to the easement, covenant, restriction, or servitude*  
2 *and in the grantor index in the name of the department.*

3 25225. *The department shall record within 10 days any final*  
4 *written instrument made pursuant to Section 25221 or 25224 with*  
5 *the county recorder of the county in which the property is located.*  
6 *Any recordation made pursuant to this article or Section 25202.5*  
7 *or 25355.5 shall include the street address, assessor's parcel*  
8 *number, or legal description of each parcel affected and the name*  
9 *of the owner thereof, and the recordation shall be recorded by the*  
10 *recorder in the grantor index in the name of the record title owner*  
11 *of the real property and in the grantee index in the name of the*  
12 *department.*

13 25226. *An assessor shall consider a restrictive easement,*  
14 *covenant, restriction, or servitude adopted pursuant to the former*  
15 *Section 25230, as that section read prior to the effective date of*  
16 *this article, or Section 25202.5, 25221, or 25355.5 as an*  
17 *enforceable easement, covenant, restriction, or servitude subject*  
18 *to Section 402.1 of the Revenue and Taxation Code and shall*  
19 *appropriately reassess the land, those of which has been restricted,*  
20 *at the lien date following the adoption or imposition of the*  
21 *easement, covenant, restriction, or servitude.*

22 SEC. 40. *Section 25244.01 is added to the Health and Safety*  
23 *Code, to read:*

24 25244.01. (a) *Except as provided in subdivision (b), the*  
25 *department's duty to implement this article is contingent upon,*  
26 *and limited to, the availability of funding.*

27 (b) *Subdivision (a) does not apply to Section 25244.4.*

28 SEC. 41. *The heading of Article 11.9 (commencing with Section*  
29 *25244.12) of Chapter 6.5 of Division 20 of the Health and Safety*  
30 *Code is amended to read:*

31  
32 *Article 11.9. Pollution Prevention and Hazardous Waste Source*  
33 *Reduction and Management Review Act of 1989*  
34

35 SEC. 42. *Section 25244.12 of the Health and Safety Code is*  
36 *amended to read:*

37 25244.12. *This article shall be known and may be cited as the*  
38 *Pollution Prevention and Hazardous Waste Source Reduction and*  
39 *Management Review Act of 1989: Act.*



1     SEC. 43. Section 25244.13 of the Health and Safety Code is  
2     amended to read:

3     25244.13. The Legislature finds and declares as follows:

4     (a) Existing law requires the department and the State Water  
5     Resources Control Board to promote the reduction of generated  
6     hazardous waste. This policy, in combination with hazardous waste  
7     land disposal bans, requires the rapid development of new programs  
8     and incentives for achieving the goal of optimal minimization of  
9     the generation of hazardous wastes. Substantial improvements and  
10    additions to the state's hazardous waste reduction program are  
11    required to be made if these goals are to be achieved.

12    (b) Hazardous waste source reduction provides substantial  
13    benefits to the state's economy by maximizing use of materials,  
14    avoiding generation of waste materials, improving business  
15    efficiency, enhancing revenues of companies that provide products  
16    and services in the state, increasing the economic competitiveness  
17    of businesses located in the state, and protecting the state's precious  
18    and valuable natural resources.

19    (c) It is the intent of the Legislature to expand the state's  
20    ~~hazardous waste source reduction~~ *pollution prevention* activities  
21    beyond those directly associated with source reduction evaluation  
22    reviews and plans. The expanded program, which is intended to  
23    ~~accelerate reduction in hazardous waste generation,~~ *pollution*  
24    ~~prevention,~~ shall include programs to promote implementation of  
25    ~~source reduction~~ *pollution prevention* measures using education,  
26    outreach, and other effective voluntary techniques demonstrated  
27    in California or other states.

28    (d) It is the intent of the Legislature for the department to  
29    maximize the use of its available resources in implementing the  
30    ~~expanded source reduction~~ *pollution prevention* program through  
31    cooperation with other entities, including, but not limited to,  
32    CUPAs, small business development corporations, business  
33    environmental assistance centers, and other regional and local  
34    government environmental programs. To the extent feasible, the  
35    department shall utilize cooperative programs with entities that  
36    routinely contact small business to expand its support of small  
37    ~~business source reduction~~ *pollution prevention* activities.

38    (e) It is the goal of this article to do all of the following:

39    (1) Reduce the generation of hazardous waste.

(2) Reduce the release into the environment of chemical contaminants—~~which~~ *that* have adverse and serious health or environmental effects.

(3) Document hazardous waste management information and make that information available to state and local government.

(f) It is the intent of this article to promote the reduction of hazardous waste at its source, and wherever source reduction is not feasible or practicable, to encourage recycling. Where it is not feasible to reduce or recycle hazardous waste, the waste should be treated in an environmentally safe manner to minimize the present and future threat to health and the environment.

(g) It is the intent of the Legislature not to preclude the regulation of environmentally harmful releases to all media, including air, land, surface water, and groundwater, and to encourage and promote the reduction of these releases to air, land, surface water, and groundwater.

(h) It is the intent of the Legislature to encourage all state departments and agencies, especially the State Water Resources Control Board, the California regional water quality control boards, the State Air Resources Board, the air pollution control districts, and the air quality management districts, to promote the reduction of environmentally harmful releases to all media.

*SEC. 44. Section 25244.13.1 is added to the Health and Safety Code, to read:*

*25244.13.1. (a) The department's duties to implement this article are contingent upon, and limited to, the availability of funding.*

*(b) Subdivision (a) does not eliminate a requirement of this article that is imposed upon a generator.*

*SEC. 45. Section 25244.14 of the Health and Safety Code is amended to read:*

*25244.14. For purposes of this article, the following definitions apply:*

(a) "Advisory committee" means the California—~~Source~~ *Reduction Pollution Prevention* Advisory Committee established pursuant to Section 25244.15.1.

(b) "Appropriate local agency" means a county, city, or regional association that has adopted a hazardous waste management plan pursuant to Article 3.5 (commencing with Section 25135).

1 (c) “Business” has the same meaning as defined in Section  
2 25501.

3 (e)

4 (d) “Hazardous waste management approaches” means  
5 approaches, methods, and techniques of managing the generation  
6 and handling of hazardous waste, including source reduction,  
7 recycling, and the treatment of hazardous waste.

8 (d)

9 (e) “Hazardous waste management performance report” or  
10 “report” means the report required by subdivision (b) of Section  
11 25244.20 to document and evaluate the results of hazardous waste  
12 management practices.

13 (f) “NAICS Code” means the identification number assigned  
14 to specific types of businesses by the North American Industry  
15 Classification System (NAICS) adopted by the United States Census  
16 Bureau.

17 (g) “Pollution prevention” means the reduction of chemical  
18 sources that have adverse impacts on public health and the  
19 environment, including, but not limited to, source reduction.

20 (h) “SIC Code” means the identification number assigned to  
21 specific types of businesses by the Standard Industrial  
22 Classification (SIC) system established by the United States  
23 Department of Commerce.

24 (e)

25 (i) (1) “Source reduction” means one of the following:

26 (A) ~~Any~~ An action that causes a net reduction in the generation  
27 of hazardous waste.

28 (B) ~~Any~~ An action taken before the hazardous waste is  
29 generated that results in a lessening of the properties ~~which~~ that  
30 cause it to be classified as a hazardous waste.

31 (2) “Source reduction” includes, but is not limited to, all of the  
32 following:

33 (A) “Input change,” which means a change in raw materials or  
34 feedstocks used in a production process or operation so as to  
35 reduce, avoid, or eliminate the generation of hazardous waste.

36 (B) “Operational improvement,” which means improved site  
37 management so as to reduce, avoid, or eliminate the generation of  
38 hazardous waste.

39 (C) “Production process change,” which means a change in a  
40 process, method, or technique ~~which~~ that is used to produce a

1 product or a desired result, including the return of materials or  
2 their components, for reuse within the existing processes or  
3 operations, so as to reduce, avoid, or eliminate the generation of  
4 hazardous waste.

5 (D) “Product reformulation,” which means changes in design,  
6 composition, or specifications of end products, including product  
7 substitution, so as to reduce, avoid, or eliminate the generation of  
8 hazardous waste.

9 (3) “Source reduction” does not include any of the following:

10 (A) Actions taken after a hazardous waste is generated.

11 (B) Actions that merely concentrate the constituents of a  
12 hazardous waste to reduce its volume or that dilute the hazardous  
13 waste to reduce its hazardous characteristics.

14 (C) Actions that merely shift hazardous wastes from one  
15 environmental medium to another environmental medium.

16 (D) Treatment.

17 ~~(f)~~

18 (j) “Source reduction evaluation review and plan” or “review  
19 and plan” means a review conducted by the generator of the  
20 processes, operations, and procedures in use at a generator’s site,  
21 in accordance with the format established by the department  
22 pursuant to subdivision (a) of Section 25244.16, and that does both  
23 of the following:

24 (1) Determines any alternatives to, or modifications of, the  
25 generator’s processes, operations, and procedures that may be  
26 implemented to reduce the amount of hazardous waste generated.

27 (2) Includes a plan to document and implement source reduction  
28 measures for the hazardous wastes specified in paragraph (1) that  
29 are technically feasible and economically practicable for the  
30 generator, including a reasonable implementation schedule.

31 ~~(g) “SIC Code” has the same meaning as defined in Section~~  
32 ~~25501.~~

33 ~~(h)~~

34 (k) “Hazardous waste,” “person,” “recycle,” and “treatment”  
35 have the same ~~meaning~~ *meanings* as defined in Article 2  
36 (commencing with Section 25110).

37 *SEC. 46. Section 25244.15 of the Health and Safety Code is*  
38 *amended to read:*

39 25244.15. (a) ~~The department shall establish~~ *This article*  
40 *establishes* a program for ~~hazardous waste source reduction~~

~~pursuant to this article: pollution prevention, including, but not limited to, hazardous waste source reduction.~~

(b) The department shall coordinate the activities of all state agencies with responsibilities and duties relating to hazardous waste and shall promote coordinated efforts to encourage the reduction of hazardous waste. Coordination between the program and other relevant state agencies and programs shall, to the fullest extent possible, include joint planning processes and joint research and studies.

(c) The department shall adopt regulations to carry out *the requirements imposed upon generators pursuant to this article.*

(d) (1) Except as provided in paragraph (3), ~~this article applies Sections 25244.19, 25244.20, and 25244.21~~ apply only to generators who, by site, routinely generate, through ongoing processes and operations, more than 12,000 kilograms of hazardous waste in a calendar year, or more than 12 kilograms of extremely hazardous waste in a calendar year.

(2) The department shall adopt regulations to establish procedures for exempting generators from the requirements of this article where the department determines that no source reduction opportunities exist for the generator.

(3) Notwithstanding paragraph (1), ~~this article does Sections 25244.19, 25244.20, and 25244.21~~ do not apply to any generator whose hazardous waste generating activity consists solely of receiving offsite hazardous wastes and generating residuals from the processing of those hazardous wastes.

*SEC. 47. Section 25244.15.1 of the Health and Safety Code is amended to read:*

25244.15.1. (a) The California ~~Source Reduction Pollution Prevention~~ Advisory Committee is hereby created and consists of the following members:

(1) The Executive Director of the State Air Resources Board, as an ex officio member.

(2) The Executive Director of the State Water Resources Control Board, as an ex officio member.

(3) The Director of Toxic Substances Control, as an ex officio member.

(4) ~~The Executive Director of the Integrated Waste Management Board;~~ *Resources Recycling and Recovery*, as an ex officio member.

(5) The Chairperson of the California Environmental Policy Council established pursuant to Section 71017 of the Public Resources Code, as an ex officio member.

(6) *The Director of Pesticide Regulation, as an ex officio member.*

~~(6)~~

(7) Ten public members with experience in ~~source reduction~~ *pollution prevention* as appointed by the department. These public members shall include all of the following:

(A) Two representatives of local governments from different regions of the state.

(B) One representative of a publicly owned treatment works.

(C) Two representatives of industry.

(D) One representative of small business.

(E) One representative of organized labor.

(F) Two representatives of statewide environmental advocacy organizations.

(G) One representative of a statewide public health advocacy organization.

~~(7)~~

(8) The department may appoint up to two additional public members with experience in ~~source reduction~~ *pollution prevention* and detailed knowledge of one of the priority categories of ~~generators businesses~~ selected in accordance with Section 25244.17.1.

(b) The advisory committee shall select one member to serve as chairperson.

(c) The members of the advisory committee shall serve without compensation, but each member, other than officials of the state, *upon request*, shall be reimbursed for all reasonable expenses incurred in the performance of his or her duties, as authorized by the department.

~~(d) The advisory committee shall meet at least semiannually to~~  
*When convened by the department, the advisory committee shall* provide a public forum for discussion and deliberation on matters pertaining to the implementation of this chapter.

(e) The advisory committee's responsibilities shall include, but not be limited to, the following:

1 (1) Reviewing and providing consultation and guidance in the  
2 preparation of the work plan ~~required~~ *authorized* by Section  
3 25244.22.

4 (2) Evaluating the performance and progress of the department's  
5 ~~source reduction~~ *pollution prevention* program.

6 (3) Making recommendations to the department concerning  
7 program activities and funding priorities, and legislative changes,  
8 if needed.

9 ~~(f) The advisory committee established by this section shall be  
10 in existence until April 15, 2002, by which date the department  
11 shall, in consultation with the advisory committee, evaluate the  
12 role and activities of the advisory committee and determine if the  
13 committee is beneficial~~

14 ~~(4) Making recommendations to the implementation of this  
15 article. On and after April 15, 2002, the advisory committee shall  
16 continue department concerning strategies to exist and operate to  
17 the extent that the department, in consultation more effectively  
18 align its pollution prevention program with the advisory  
19 committee, determines the advisory committee continues to be  
20 beneficial to the operation of the department's source reduction  
21 programs: goals of the department's green chemistry program,  
22 including the implementation of Article 14 (commencing with  
23 Section 25251).~~

24 *SEC. 48. Section 25244.16 of the Health and Safety Code is*  
25 *amended to read:*

26 25244.16. The department shall do both of the following:

27 (a) Adopt a format to be used by generators for completing the  
28 review and plan required by Section 25244.19, and the report  
29 required by Section 25244.20. The format shall include at least all  
30 of the factors the generator is required to include in the review and  
31 plan and the report. The department may include any other factor  
32 determined by the department to be necessary to carry out this  
33 article. The adoption of a format pursuant to this subdivision is  
34 not subject to Chapter 3.5 (commencing with Section 11340) of  
35 Part 1 of Division 3 of Title 2 of the Government Code.

36 (b) Establish a data and information system to be used by the  
37 department for ~~developing the categories of generators specified~~  
38 ~~in Section 25244.18, and for processing and evaluating the source~~  
39 ~~reduction and other hazardous waste management information~~  
40 ~~submitted by generators pursuant to Section 25244.18. In~~

1 establishing the data and information system, the department shall  
2 do all of the following:

3 (1) Establish methods and procedures for appropriately  
4 processing or managing hazardous waste source reduction and  
5 management information.

6 (2) Use the data management expertise, resources, and forms  
7 of already established environmental protection programs, to the  
8 extent practicable.

9 (3) Establish computerized data retrieval and data processing  
10 systems, including safeguards to protect trade secrets designated  
11 pursuant to Section 25244.23.

12 (4) Identify additional data and information needs of the  
13 program.

14 *SEC. 49. Section 25244.17 of the Health and Safety Code is*  
15 *amended to read:*

16 25244.17. The department ~~shall~~ *may* establish a technical and  
17 research assistance program to assist ~~generators~~ *businesses* in  
18 identifying and applying methods of ~~source reduction and other~~  
19 ~~hazardous waste management approaches.~~ *pollution prevention.*  
20 The program shall emphasize assistance to smaller businesses that  
21 have inadequate technical and financial resources for obtaining  
22 information, ~~assessing source reduction~~ *pollution prevention*  
23 ~~methods, and developing and applying source reduction~~ *pollution*  
24 ~~prevention techniques. The program shall include at least all of~~  
25 ~~the following elements, which shall be carried out by the~~  
26 ~~department.~~ *be carried out by the department pursuant to this*  
27 *section may include, but is not limited to, each of the following:*

28 (a) ~~The department shall encourage programs.~~ *Programs* by  
29 private or public consultants, including onsite consultation at sites  
30 or locations where hazardous waste is generated, to aid those  
31 generators requiring assistance in developing and implementing  
32 the review and plan, the plan summary, the report, and the report  
33 summary required by this article.

34 (b) ~~The department shall conduct review and plan assistance~~  
35 ~~programs, seminars,~~ *Seminars*, workshops, training programs, and  
36 other similar activities to assist ~~generators~~ *businesses* to evaluate  
37 ~~source reduction~~ *pollution prevention* alternatives and to identify  
38 opportunities for ~~source reduction.~~ *pollution prevention.*

39 (c) ~~The department shall establish a program to assemble,~~  
40 ~~catalogue,~~ *Assembling, cataloging, and disseminate disseminating*



1 information about ~~hazardous waste source reduction~~ *pollution*  
2 *prevention* methods, available consultant services, and regulatory  
3 requirements.

4 (d) ~~The department shall identify the identification of a range~~  
5 of generic and ~~specific~~ *specified* technical *pollution prevention*  
6 solutions that can be applied by particular types of ~~hazardous waste~~  
7 ~~generators to reduce hazardous waste generation.~~ *businesses.*

8 *SEC. 50. Section 25244.17.1 of the Health and Safety Code is*  
9 *amended to read:*

10 25244.17.1. The department ~~shall~~ *may* establish a technical  
11 assistance and outreach program to promote implementation of  
12 ~~model source reduction pollution prevention~~ measures in priority  
13 ~~industry business~~ categories.

14 (a) ~~Every two years, in~~ *In* the work plan ~~required by~~ *described*  
15 *in* Section 25244.22, the department ~~shall~~, *may*, in consultation  
16 with the advisory committee, ~~select at least four~~ *identify* priority  
17 categories of ~~generators businesses~~ by SIC or NAICS Code. At  
18 least one selected category of ~~generators businesses~~ shall be ~~taken~~  
19 ~~from the list of categories previously selected by the department~~  
20 ~~under Section 25244.18.~~ At least one selected category of  
21 ~~generators~~ shall be a category that consists primarily of small  
22 *businesses.* At least one selected category of ~~generators businesses~~  
23 shall be a category that consists primarily of businesses affected  
24 by an action taken by the department pursuant to Article 14  
25 (commencing with Section ~~25251~~) of Chapter 6.5 of Division 20.  
26 *25251*).

27 (b) For each selected priority ~~industry business~~ category, the  
28 department ~~shall~~ *may* implement a cooperative ~~source reduction~~  
29 ~~pollution prevention~~ technical assistance and outreach program to  
30 ~~include that includes~~ the following elements:

31 (1) ~~The department shall use available resources, including~~  
32 ~~reports prepared pursuant to paragraph (4) of subdivision (a) of~~  
33 ~~Section 25244.18 and information on source reduction methods~~  
34 ~~from federal, state, and local governments and industry associations~~  
35 ~~and industry members, to identify a set of model source reduction~~  
36 *Effective pollution prevention* measures for each ~~industry business~~  
37 category.

38 (2) ~~The department shall determine, with the assistance of the~~  
39 ~~advisory committee, the most effective technical assistance and~~  
40 outreach methods to promote implementation of the ~~model source~~

1 ~~reduction~~ *pollution prevention* measures identified in paragraph  
2 (1).

3 ~~(3) The department shall develop a plan and schedule to~~  
4 ~~implement the *Appropriate measures for evaluating the*~~  
5 ~~*effectiveness of the* technical assistance and outreach *measures,*~~  
6 ~~*including quantitative* measures before the next biennial work~~  
7 ~~plan. The measures may include, but are not limited to, all of the~~  
8 ~~following: when feasible.~~

9 ~~(A) Holding, presenting at, or cosponsoring workshops,~~  
10 ~~conferences, technology fairs, and other promotional events.~~

11 ~~(B) Developing and distributing educational materials, such as~~  
12 ~~short descriptions of successful source reduction projects.~~

13 ~~(C) Developing checklists, training manuals, and technical~~  
14 ~~resource manuals and using those resources to train CUPAs, small~~  
15 ~~business development corporations, business environmental~~  
16 ~~assistance centers, and other regional and local government~~  
17 ~~environmental programs.~~

18 ~~(D) Preparing and distributing resource lists, such as lists of~~  
19 ~~vendors, consultants, or providers of financial assistance for source~~  
20 ~~reduction projects.~~

21 ~~(E) Serving as an information clearinghouse to support telephone~~  
22 ~~and onsite consultations with businesses and local governments.~~

23 ~~(4) For industry categories that include primarily large or~~  
24 ~~technically complex businesses, the source reduction technical~~  
25 ~~assistance and outreach program shall emphasize activities that~~  
26 ~~involve direct communication between department staff and~~  
27 ~~industry members. For these industry categories, the department~~  
28 ~~shall communicate with representatives of 80 percent of the state's~~  
29 ~~companies in the category. For categories that consist primarily~~  
30 ~~of small businesses, the cooperative source reduction program~~  
31 ~~shall emphasize providing industry-specific training and resources~~  
32 ~~to CUPAs, small business development corporations, business~~  
33 ~~environmental assistance centers, and other regional and local~~  
34 ~~government environmental programs for use in their inspections~~  
35 ~~and other direct communications with businesses.~~

36 ~~(e) While conducting activities under this section, the department~~  
37 ~~shall coordinate its activities with appropriate industry and~~  
38 ~~professional associations.~~

39 ~~(d) The department shall coordinate activities under this section~~  
40 ~~with grants made under Section 25244.5.~~

1 SEC. 51. Section 25244.17.2 of the Health and Safety Code is  
2 amended to read:

3 25244.17.2. (a) (1) The department ~~shall expand the~~  
4 ~~department's source reduction program to~~ may provide source  
5 reduction pollution prevention training and resources to CUPAs,  
6 small business development corporations, business environmental  
7 assistance centers, and other regional and local government  
8 environmental programs so that they can provide technical  
9 assistance to ~~generators~~ businesses in identifying and applying  
10 methods of ~~source reduction~~. pollution prevention.

11 (a)  
12 (2) The ~~program expanded activities conducted pursuant to this~~  
13 ~~section paragraph (1)~~ shall emphasize activities necessary to  
14 implement Sections 25244.17 and 25244.17.1.

15 (b) As part of implementing the program ~~required~~ authorized  
16 by this section, the department ~~shall~~ may develop a California  
17 Green Business Program that provides support and assistance to  
18 programs operated by local governments to meet the requirement  
19 of subdivision (c) and that would voluntarily certify small  
20 businesses that adopt environmentally preferable business practices,  
21 including, but not limited to, increased energy efficiency, reduced  
22 greenhouse gas emissions, promotion of water conservation, and  
23 reduced waste generation. The department's California Green  
24 Business Program ~~shall~~ may do any or all of the following:

25 (1) Assist the network of statewide local government programs  
26 in implementing guidelines and structures that establish and  
27 promote a level of consistency among green business programs  
28 across the state.

29 (2) Support, through staffing and contracts, the development  
30 and maintenance of a statewide database to register small  
31 businesses granted green business certification, or its equivalent,  
32 pursuant to a local government program, and track measurable  
33 pollution reductions and cost savings.

34 (3) Solicit participation of additional local programs and  
35 facilitate the startup of new local programs.

36 (4) Develop technical guidance on pollution prevention  
37 measures, conduct industry studies and pilot projects, and provide  
38 policy coordination for the participating local programs.

39 (5) Collaborate with relevant state agencies that operate small  
40 business efficiency and economic development programs,

1 including, but not limited to, the Department of Resources  
2 Recycling and Recovery, the Public Utilities Commission, the  
3 State Energy Resources Conservation and Development  
4 Commission, the State Air Resources Board, and the Department  
5 of Water Resources.

6 (c) The department may provide support and assistance to a  
7 local government program to enable the program to meet all of  
8 the following requirements:

9 (1) The program will be operated by a local government or its  
10 designee.

11 (2) The program will adopt industry-specific standards for green  
12 business certification, or its equivalent, in consultation with the  
13 other participants in the California Green Business Program.

14 (3) The program will grant a small business that voluntarily  
15 applies to the program a green business certification or its  
16 equivalent, only upon a determination by the program operator or  
17 designee that the business is a small business, as determined by  
18 the program, and complies with the industry-specific standards for  
19 green business certification adopted pursuant to paragraph (2).

20 (4) The program will grant a green business certification, or its  
21 equivalent, to small businesses, as determined by the program, in  
22 accordance with all of the following requirements:

23 (A) Before the program grants green business certification or  
24 its equivalent, the program conducts an evaluation to verify  
25 compliance with the appropriate green business certification  
26 standards adopted pursuant to paragraph (2).

27 (B) A green business certification or its equivalent is granted  
28 only to an individual location of a small business.

29 (C) A green business certification or its equivalent is granted  
30 to an individual small business only for a limited time period, and,  
31 after the elapse of that time period, the small business is required  
32 to reapply for that certification.

33 (D) Compliance with applicable federal, state, and local  
34 environmental laws and regulations is required as a condition of  
35 receiving a green business certification or its equivalent.

36 (d) The department ~~shall~~ *may* determine, in consultation with  
37 the advisory committee, the most effective methods to promote  
38 implementation of ~~source reduction~~ *pollution prevention* education  
39 programs by CUPAs, small business development corporations,  
40 business environmental assistance centers, and other regional and

1 local government environmental programs. Program elements may  
2 include, but are not limited to, all of the following:

3 (1) Sponsoring workshops, conferences, technology fairs, and  
4 other training events.

5 (2) Sponsoring regional training groups, such as the regional  
6 hazardous waste reduction committees.

7 (3) Developing and distributing educational materials, such as  
8 short descriptions of successful ~~source reduction~~ *pollution*  
9 *prevention* projects and materials explaining how ~~source reduction~~  
10 *pollution prevention* has been used by businesses to achieve  
11 compliance with environmental laws enforced by local  
12 governments.

13 (4) Developing site review checklists, training manuals, and  
14 technical resource manuals and using those resources to train  
15 CUPAs, small business development corporations, business  
16 environmental assistance centers, and other regional and local  
17 government environmental programs.

18 (5) Preparing and distributing resource lists such as lists of  
19 vendors, consultants, or providers of financial assistance for ~~source~~  
20 ~~reduction~~ *pollution prevention* projects.

21 (6) Serving as an information clearinghouse to support telephone  
22 and onsite consultants with local governments.

23 (e) ~~Each fiscal year, the department shall provide training and~~  
24 ~~information resources to at least 90 percent of CUPAs.~~

25 *SEC. 52. Section 25244.18 of the Health and Safety Code is*  
26 *amended to read:*

27 ~~25244.18. (a) On or before September 15, 1991, and every~~  
28 ~~two years thereafter, the department shall select at least two~~  
29 ~~categories of generators by SIC Code with potential for source~~  
30 ~~reduction, and, for each category, shall do all of the following:~~

31 ~~(1) Request that selected generators in the category provide the~~  
32 ~~department, on a timely basis, with a copy of the generator's~~  
33 ~~completed review and plan and with a copy of the generator's~~  
34 ~~completed report.~~

35 ~~(2) Examine the review and plan and the report of selected~~  
36 ~~generators in the category.~~

37 ~~(3) Ensure that the selected generators in that category comply~~  
38 ~~with Sections 25244.19 and 25244.20.~~

39 ~~(4) Identify successful source reduction and other hazardous~~  
40 ~~waste management approaches employed by generators in the~~

1 category and disseminate information concerning those approaches  
2 to generators within the category.

3 ~~(b) In carrying out subdivision (a), the department shall not~~  
4 ~~disseminate information determined to be a trade secret pursuant~~  
5 ~~to Section 25244.23.~~

6 (e)

7 25244.18. (a) The department or the unified program agency  
8 may request from any generator, and the generator shall provide  
9 within 30 days from the date of the request, a copy of the  
10 generator's review and plan or report *conducted and completed*  
11 *pursuant to Section 25244.19 or 25244.20*. The department or the  
12 unified program agency may evaluate any of those documents  
13 submitted to the department or the unified program agency to  
14 determine whether it satisfies the requirements of this article.

15 (d)

16 (b) (1) If the department or the unified program agency  
17 determines that a generator has not completed the review and plan  
18 in the manner required by Section 25244.19, or the report in the  
19 manner required by Section 25244.20, the department or the unified  
20 program agency shall provide the generator with a notice of  
21 noncompliance, specifying the deficiencies in the review and plan  
22 or report identified by the department. If the department or the  
23 unified program agency finds that the review and plan does not  
24 comply with Section 25244.19, the department or the unified  
25 program agency shall consider the review and plan to be  
26 incomplete. A generator shall file a revised review and plan or  
27 report correcting the deficiencies identified by the department or  
28 the unified program agency within 60 days from the date of the  
29 receipt of the notice. The department or the unified program agency  
30 may grant, in response to a written request from the generator, an  
31 extension of the 60-day deadline, for cause, except that the  
32 department or the unified program agency shall not grant that  
33 extension for more than an additional 60 days.

34 (2) If a generator fails to submit a revised review and plan or  
35 report complying with the requirements of this article within the  
36 required period, or if the department or unified program agency  
37 determines that a generator has failed to implement the measures  
38 included in the generator's review and plan for reducing the  
39 generator's hazardous waste, in accordance with Section 25244.19,  
40 the department or the unified program agency may impose civil

1 penalties pursuant to Section 25187, in an amount not to exceed  
2 one thousand dollars (\$1,000) for each day the violation of this  
3 article continues, notwithstanding Section 25189.2, seek an order  
4 directing compliance pursuant to Section 25181, or enter into a  
5 consent agreement or a compliance schedule with the generator.

6 ~~(e)~~

7 (c) If a generator fails to implement a measure specified in the  
8 review and plan pursuant to paragraph (5) of subdivision (b) of  
9 Section 25244.19, the generator shall not be deemed to be in  
10 violation of Section 25244.19 for not implementing the selected  
11 measure if the generator does both of the following:

12 (1) The generator finds that, upon further analysis or as a result  
13 of unexpected consequences, the selected measure is not technically  
14 feasible or economically practicable, or if the selected approach  
15 has resulted in any of the following:

16 (A) An increase in the generation of hazardous waste.

17 (B) An increase in the release of hazardous chemical  
18 contaminants to other media.

19 (C) Adverse impacts on product quality.

20 (D) A significant increase in the risk of an adverse impact to  
21 human health or the environment.

22 (2) The generator revises the review and plan to comply with  
23 the requirements of Section 25244.19.

24 ~~(f)~~

25 (d) When taking enforcement action pursuant to this article, the  
26 department or the unified program agency shall not judge the  
27 appropriateness of any decisions or proposed measures contained  
28 in a review and plan or report, but shall only determine whether  
29 the review and plan or report is complete, prepared, and  
30 implemented in accordance with this article.

31 ~~(g)~~

32 (e) In addition to the unified program agency, an appropriate  
33 local agency that has jurisdiction over a generator's site may  
34 request from the generator, and the generator shall provide within  
35 30 days from the date of that request, a copy of the generator's  
36 current review and plan and report.

37 (f) *In carrying out this article, the department shall not*  
38 *disseminate information determined to be a trade secret pursuant*  
39 *to Section 25244.23.*

1     *SEC. 53. Section 25244.19 of the Health and Safety Code is*  
2     *amended to read:*

3     25244.19. (a) On or before September 1, 1991, and every four  
4     years thereafter, each generator shall conduct a source reduction  
5     evaluation review and plan pursuant to subdivision (b).

6     (b) Except as provided in subdivision (c), the source reduction  
7     evaluation review and plan required by subdivision (a) shall be  
8     conducted and completed for each site pursuant to the format  
9     adopted pursuant to subdivision (a) of Section 25244.16 and shall  
10    include, at a minimum, all of the following:

11    (1) The name and location of the site.

12    (2) The SIC Code of the site.

13    (3) Identification of all routinely generated hazardous waste  
14    streams that annually weigh 600 kilograms or more and that result  
15    from ongoing processes or operations and exceed 5 percent of the  
16    total yearly weight of hazardous waste generated at the site, or,  
17    for extremely hazardous waste, that annually weigh 0.6 kilograms  
18    or more and exceed 5 percent of the total yearly weight of  
19    extremely hazardous waste generated at the site. For purposes of  
20    this paragraph, a hazardous waste stream identified pursuant to  
21    this paragraph shall also meet one of the following criteria:

22    (A) It is a hazardous waste stream processed in a wastewater  
23    treatment unit that discharges to a publicly owned treatment works  
24    or under a national pollutant discharge elimination system  
25    (NPDES) permit, as specified in the Federal Water Pollution  
26    Control Act, as amended (33 U.S.C. Sec. 1251 and following).

27    (B) It is a hazardous waste stream that is not processed in a  
28    wastewater treatment unit and its weight exceeds 5 percent of the  
29    weight of the total yearly volume at the site, less the weight of any  
30    hazardous waste stream identified in subparagraph (A).

31    (4) For each hazardous waste stream identified in paragraph  
32    (3), the review and plan shall include all of the following  
33    information:

34    (A) An estimate of the quantity of hazardous waste generated.

35    (B) An evaluation of source reduction approaches available to  
36    the generator that are potentially viable. The evaluation shall  
37    consider at least all of the following source reduction approaches:

38    (i) Input change.

39    (ii) Operational improvement.

40    (iii) Production process change.



1 (iv) Product reformulation.

2 (5) A specification of, and a rationale for, the technically feasible  
3 and economically practicable source reduction measures that will  
4 be taken by the generator with respect to each hazardous waste  
5 stream identified in paragraph (3). The review and plan shall fully  
6 document any statement explaining the generator's rationale for  
7 rejecting any available source reduction approach identified in  
8 paragraph (4).

9 (6) An evaluation, and, to the extent practicable, a quantification,  
10 of the effects of the chosen source reduction method on emissions  
11 and discharges to air, water, or land.

12 (7) A timetable for making reasonable and measurable progress  
13 towards implementation of the selected source reduction measures  
14 specified in paragraph (5).

15 (8) Certification pursuant to subdivision (d).

16 (9) ~~Any~~ A generator subject to this article shall include in its  
17 source reduction evaluation review and plan four-year numerical  
18 goals for reducing the generation of hazardous waste streams  
19 through the approaches provided for in subparagraph (B) of  
20 paragraph (4), based upon its best estimate of what is achievable  
21 in that four-year period.

22 (10) A summary progress report that briefly summarizes and,  
23 to the extent practicable, quantifies, in a manner that is  
24 understandable to the general public, the results of implementing  
25 the source reduction methods identified in the generator's review  
26 and plan for each waste stream addressed by the previous plan  
27 over the previous four years. The report shall also include an  
28 estimate of the amount of reduction that the generator anticipates  
29 will be achieved by the implementation of source reduction  
30 methods during the period between the preparation of the review  
31 and plan and the preparation of the generator's next review and  
32 plan. ~~Notwithstanding any other provision of this section, the~~  
33 ~~summary progress report required to be prepared pursuant to this~~  
34 ~~paragraph shall be submitted to the department on or before~~  
35 ~~September 1, 1999, and every four years thereafter.~~

36 (c) If a generator owns or operates multiple sites with similar  
37 processes, operations, and waste streams, the generator may prepare  
38 a single multisite review and plan addressing all of these sites.

39 (d) Every review and plan conducted pursuant to this section  
40 shall be submitted by the generator for review and certification by

1 an engineer who is registered as a professional engineer pursuant  
2 to Section 6762 of the Business and Professions Code and who  
3 has demonstrated expertise in hazardous waste management, by  
4 an individual who is responsible for the processes and operations  
5 of the site, or by an environmental assessor who ~~is registered~~  
6 ~~pursuant to Section 25570.3 and who~~ has demonstrated expertise  
7 in hazardous waste management. The engineer, individual, or  
8 environmental assessor shall certify the review and plan only if  
9 the review and plan meet all of the following requirements:

10 (1) The review and plan addresses each hazardous waste stream  
11 identified pursuant to paragraph (3) of subdivision (b).

12 (2) The review and plan addresses the source reduction  
13 approaches specified in subparagraph (B) of paragraph (4) of  
14 subdivision (b).

15 (3) The review and plan clearly sets forth the measures to be  
16 taken with respect to each hazardous waste stream for which source  
17 reduction has been found to be technically feasible and  
18 economically practicable, with timetables for making reasonable  
19 and measurable progress, and properly documents the rationale  
20 for rejecting available source reduction measures.

21 (4) The review and plan does not merely shift hazardous waste  
22 from one environmental medium to another environmental medium  
23 by increasing emissions or discharges to air, water, or land.

24 (e) At the time a review and plan is submitted to the department  
25 or the unified program agency, the generator shall certify that the  
26 generator has implemented, is implementing, or will be  
27 implementing, the source reduction measures identified in the  
28 review and plan in accordance with the implementation schedule  
29 contained in the review and plan. A generator may determine not  
30 to implement a measure selected in paragraph (5) of subdivision  
31 (b) only if the generator determines, upon conducting further  
32 analysis or due to unexpected circumstances, that the selected  
33 measure is not technically feasible or economically practicable,  
34 or if attempts to implement that measure reveal that the measure  
35 would result in, or has resulted in, any of the following:

36 (1) An increase in the generation of hazardous waste.

37 (2) An increase in the release of hazardous chemicals to other  
38 environmental media.

39 (3) Adverse impacts on product quality.

1 (4) A significant increase in the risk of an adverse impact to  
2 human health or the environment.

3 (f) If the generator elects not to implement the review and plan,  
4 including, but not limited to, a selected measure pursuant to  
5 subdivision (e), the generator shall amend its review and plan to  
6 reflect that election and include in the review and plan proper  
7 documentation identifying the rationale for that election.

8 *SEC. 54. Section 25244.20 of the Health and Safety Code is*  
9 *amended to read:*

10 25244.20. (a) On or before September 1, 1991, and every four  
11 years thereafter, each generator shall prepare a hazardous waste  
12 management performance report documenting hazardous waste  
13 management approaches implemented by the generator.

14 (b) Except as provided in subdivision (d), the hazardous waste  
15 management performance report required by subdivision (a) shall  
16 be prepared for each site in accordance with the format adopted  
17 pursuant to subdivision (a) of Section 25244.16 and shall include  
18 all of the following:

19 (1) The name and location of the site.

20 (2) The SIC Code for the site.

21 (3) All of the following information for each waste stream  
22 identified pursuant to paragraph (3) of subdivision (b) of Section  
23 25244.19:

24 (A) An estimate of the quantity of hazardous waste generated  
25 and the quantity of hazardous waste managed, both onsite and  
26 offsite, during the current reporting year and the baseline year, as  
27 specified in subdivision (c).

28 (B) An abstract for each source reduction, recycling, or treatment  
29 technology implemented from the baseline year through the current  
30 reporting year, if the reporting year is different from the baseline  
31 year.

32 (C) A description of factors during the current reporting year  
33 that have affected hazardous waste generation and onsite and offsite  
34 hazardous waste management since the baseline year, including,  
35 but not limited to, any of the following:

36 (i) Changes in business activity.

37 (ii) Changes in waste classification.

38 (iii) Natural phenomena.

1 (iv) Other factors that have affected either the quantity of  
2 hazardous waste generated or onsite and offsite hazardous waste  
3 management requirements.

4 (4) The certification of the report pursuant to subdivision (e).

5 (c) For purposes of subdivision (b), the following definitions  
6 apply:

7 (1) The current reporting year is the calendar year immediately  
8 preceding the year in which the report is to be prepared.

9 (2) The baseline year is either of the following, whichever is  
10 applicable:

11 (A) For the initial report, the baseline year is the calendar year  
12 selected by the generator for which substantial hazardous waste  
13 generation, or onsite or offsite management, data is available prior  
14 to 1991.

15 (B) For all subsequent reports, the baseline year is the current  
16 reporting year of the immediately preceding report.

17 (d) If a generator owns or operates multiple sites with similar  
18 processes, operations, and waste streams, the generator may prepare  
19 a single multisite report addressing all of these sites.

20 (e) Every report completed pursuant to this section shall be  
21 submitted by the generator for review and certification by an  
22 engineer who is registered as a professional engineer pursuant to  
23 Section 6762 of the Business and Professions Code and who has  
24 demonstrated expertise in hazardous waste management, by an  
25 individual who is responsible for the processes and operations of  
26 the site, or by an environmental assessor who ~~is registered pursuant~~  
27 ~~to Section 25570.3 and who~~ has demonstrated expertise in  
28 hazardous waste management. The engineer, individual, or  
29 environmental assessor shall certify the report only if the report  
30 identifies factors that affect the generation and onsite and offsite  
31 management of hazardous wastes and summarizes the effect of  
32 those factors on the generation and onsite and offsite management  
33 of hazardous wastes.

34 *SEC. 55. Section 25244.21 of the Health and Safety Code is*  
35 *amended to read:*

36 25244.21. (a) Every generator shall retain the original of the  
37 current review and plan and report, shall maintain a copy of the  
38 current review and plan and report at each site, or, for a multisite  
39 review and plan or report, at a central location, and upon request,  
40 shall make it available to any authorized representative of the

department or the unified program agency conducting an inspection pursuant to Section 25185. If a generator fails, within five days, to make available to the inspector the review and plan or report, the department, the unified program agency, or any authorized representative of the department, or of the unified program agency, conducting an inspection pursuant to Section 25185, shall, if appropriate, impose a civil penalty pursuant to Section 25187, in an amount not to exceed one thousand dollars (\$1,000) for each day the violation of this article continues, notwithstanding Section 25189.2.

(b) If a generator fails to respond to a request for a copy of its review and plan or report made by the department or a unified program agency pursuant to subdivision—(e) (a) of Section 25244.18, or by a local agency pursuant to subdivision—(g) (e) of Section 25244.18, within 30 days from the date of the request, the department or unified program agency shall, if appropriate, assess a civil penalty pursuant to Section 25187, in an amount not to exceed one thousand dollars (\$1,000) for each day the violation of this article continues, notwithstanding Section 25189.2.

(c) (1) ~~Any~~ A person may request the department to certify that a generator is in compliance with this article by having the department certify that the generator has properly completed the review and plan and report required pursuant to Sections 25244.19 and 25244.20. The department shall respond within 60 days to a request for certification. Upon receiving a request for certification, the department shall request from the generator, who is the subject of the request, a copy of the generator's review and plan and report, pursuant to subdivision—(e) (a) of Section ~~25244.19~~, 25244.18, if the department does not have these documents. The department shall forward a copy of the review and plan and report to the person requesting certification, within 10 days from the date that the department receives the request for certification or receives the review and plan and report, whichever is later. The department shall protect trade secrets in accordance with Section 25244.23 in a review and plan or report, requested to be released pursuant to this subdivision.

(2) This subdivision does not prohibit any person from directly requesting from a generator a copy of the review and plan or report. Solely for the purposes of responding to a request pursuant to this subdivision, the department shall deem the review and plan or

1 report to be a public record subject to Section 25152.5, and shall  
2 act in compliance with that section.

3 *SEC. 56. Section 25244.22 of the Health and Safety Code is*  
4 *amended to read:*

5 25244.22. Commencing May 1, 2000, and

6 *(a) The department may, on or before January 15 of every other*  
7 *year thereafter, the department shall prepare, a periodic basis,*  
8 *prepare and make available for public review within five days*  
9 *thereafter, a draft work plan for the department's operations and*  
10 *activities in carrying out this article. The department shall prepare*  
11 *the work plan in consultation with the advisory committee and*  
12 *with other interested parties, including local government, industry,*  
13 *labor, health, and environmental organizations. After holding The*  
14 *department shall hold a public meeting of the advisory committee*  
15 *to discuss the draft work plan before finalizing the work plan. This*  
16 *work plan shall include an outline of the department's proposed*  
17 *operations and activities under this article. The department shall*  
18 *use the data summary analysis prepared pursuant to subdivision*  
19 *(b) to develop criteria for the selection of targets for pollution*  
20 *prevention efforts. When identifying activities for inclusion in the*  
21 *work plan, the department shall finalize the work plan on or before*  
22 *June 15, 2000, consider potential benefits to human health and on*  
23 *or before April 1 the environment, available resources, feasibility*  
24 *of every applying pollution prevention techniques, and availability*  
25 *of related resources from other year thereafter. The department*  
26 *may include this work plan within entities, such as other states,*  
27 *the report required pursuant to Section 25171. This work plan shall*  
28 *include, but not be limited to, all of the following information:*  
29 *federal government, local governments, and other organizations.*

30 ~~(a) A~~

31 *(b) The department may periodically prepare, and make*  
32 *available to the public on its Internet Web site, a summary analysis*  
33 *of readily available data on the state's hazardous waste generation*  
34 *and management patterns. The analysis shall may include*  
35 *information from various data sources including hazardous waste*  
36 *manifests, biennial generator reports, and United States*  
37 *Environmental Protection Agency Toxics Release Inventory*  
38 *reports. The department shall estimate the quantities of hazardous*  
39 *waste generated in the state, by hazardous waste stream, the*  
40 *amounts of hazardous waste generated in the state by industry SIC*

1 or NAICS Code, and the amounts of hazardous waste state  
2 generators sent offsite for management, by management method.

3 ~~(b) An evaluation of hazardous waste source reduction progress~~  
4 ~~in this state, using the data summary analysis prepared pursuant~~  
5 ~~to subdivision (a):~~

6 ~~(c) Recommendations for legislation.~~

7 ~~(d) Identification of any state, federal, or private economic and~~  
8 ~~financial incentives that can best accelerate and maximize the~~  
9 ~~research and development of source reduction and other hazardous~~  
10 ~~waste management technologies and approaches.~~

11 ~~(e) The status, funding, and results of all research projects.~~

12 ~~(f) A detailed summary of the extent to which the statewide~~  
13 ~~goal of 5 percent per year reduction of the generation of hazardous~~  
14 ~~wastes, pursuant to subdivision (c) of Section 25244.15, has been~~  
15 ~~attained, and a detailed summary of the extent to which different~~  
16 ~~categories of facilities have attained the numerical goals established~~  
17 ~~pursuant to paragraph (9) of subdivision (b) of Section 25244.19.~~  
18 ~~This summary, which shall use the data summary analysis prepared~~  
19 ~~pursuant to subdivision (a), shall include an evaluation by the~~  
20 ~~department of the reasons why these goals have or have not been~~  
21 ~~attained, including an evaluation of the impact of economic growth~~  
22 ~~or decline and changes in production patterns, and a list of~~  
23 ~~appropriate recommendations designed to ensure attainment of~~  
24 ~~these goals.~~

25 ~~(g) An outline of the department's operations and activities~~  
26 ~~under this article proposed for the next two-year period. The~~  
27 ~~department shall use the data summary analysis prepared pursuant~~  
28 ~~to subdivision (a) to select hazardous waste stream and industries~~  
29 ~~for source reduction efforts. When identifying activities for~~  
30 ~~inclusion in the work plan, the department shall also consider~~  
31 ~~potential benefits to human health and the environment, available~~  
32 ~~resources, feasibility of applying source reduction techniques to~~  
33 ~~reduce selected hazardous waste streams and to reduce hazardous~~  
34 ~~wastes generated by selected industries, and availability of related~~  
35 ~~resources from other entities, such as other states, the federal~~  
36 ~~government, local governments, and other organizations.~~

37 *SEC. 57. Section 25244.23 of the Health and Safety Code is*  
38 *amended to read:*

39 25244.23. (a) (1) The department shall adopt regulations to  
40 ensure that trade secrets designated by a generator in all or a portion

1 of the review and plan or the report required by this article are  
2 utilized by the director, the department, the unified program  
3 agency, or the appropriate local agency only in connection with  
4 the responsibilities of the department pursuant to this article, and  
5 that those trade secrets are not otherwise disseminated by the  
6 director, the department, the unified program agency, or any  
7 authorized representative of the department, or the appropriate  
8 local agency, without the consent of the generator.

9 (2) Any information subject to this section shall be made  
10 available to governmental agencies for use in making studies and  
11 for use in judicial review or enforcement proceedings involving  
12 the person furnishing the information.

13 (3) As provided by Section 25159.5, the regulations adopted  
14 pursuant to this subdivision shall conform with the corresponding  
15 trade secret regulations adopted by the Environmental Protection  
16 Agency pursuant to the federal act, except that the regulations  
17 adopted by the department may be more stringent or more extensive  
18 than the federal trade secret regulations.

19 (4) "Trade secrets," as used in this section, may include, but are  
20 not limited to, any formula, plan, pattern, process, tool, mechanism,  
21 compound, procedure, production data, or compilation of  
22 information that is not patented, that is known only to certain  
23 individuals within a commercial concern who are using it to  
24 fabricate, produce, or compound an article of trade or a service  
25 having commercial value, and that gives its user an opportunity  
26 to obtain a business advantage over competitors who do not know  
27 or use it.

28 (b) The department, the unified program agency, and the  
29 appropriate local agency shall protect from disclosure any trade  
30 secret designated by the generator pursuant to this section. The  
31 department shall make available information concerning ~~source~~  
32 ~~reduction~~ *pollution prevention* approaches that have proved  
33 successful, and that do not constitute a trade secret, when carrying  
34 out subdivision (c) of Section ~~25244.17~~ and to subdivision (a) of  
35 ~~Section 25244.18~~. 25244.17.

36 (c) This section does not permit a generator to refuse to disclose  
37 the information required pursuant to this article to the department,  
38 the unified program agency, or the appropriate local agency, an  
39 officer or employee of the department, the unified program agency,



1 or the appropriate local agency, in connection with the official  
2 duties of that officer or employee under this article.

3 (d) Any officer or employee of the department, the unified  
4 program agency, or the appropriate local agency, or any other  
5 person, who, because of his or her employment or official position,  
6 has possession of, or has access to, confidential information, and  
7 who, knowing that disclosure of the information to the general  
8 public is prohibited by this section, knowingly and willfully  
9 discloses the information in any manner to any person not entitled  
10 to receive it, is guilty of a misdemeanor and, upon conviction  
11 thereof, shall be punished by imprisonment in the county jail not  
12 exceeding six months, by a fine not exceeding one thousand dollars  
13 (\$1,000), or by both the fine and imprisonment.

14 *SEC. 58. Section 25244.24 of the Health and Safety Code is*  
15 *repealed.*

16 ~~25244.24. (a) For purposes of this section the following~~  
17 ~~definitions shall apply:~~

18 ~~(1) "Program" means the voluntary program to reduce hazardous~~  
19 ~~waste generation established by this section.~~

20 ~~(2) "Release" means a release of a chemical into the environment~~  
21 ~~in any manner and by any means. "Release" includes, but is not~~  
22 ~~limited to, any release authorized or permitted pursuant to a statute,~~  
23 ~~ordinance, regulation, or rule of any federal, state, local, or regional~~  
24 ~~agency or government or by a permit, license, variance or other~~  
25 ~~authorization from the agency or government.~~

26 ~~(b) On or before October 1, 2000, the department shall, in~~  
27 ~~consultation with the advisory committee established pursuant to~~  
28 ~~Section 25244.15.1, conduct an inventory and analysis of low-cost~~  
29 ~~voluntary programs that are, or have been conducted by other~~  
30 ~~states, the federal government, or local government entities to~~  
31 ~~reduce hazardous waste generation and other environmental~~  
32 ~~releases of toxic chemicals, and shall develop recommendations~~  
33 ~~for programs that would be effective and feasible in California,~~  
34 ~~based on the inventory and analysis.~~

35 ~~(c) In consultation with the advisory committee, large~~  
36 ~~businesses, and the public, the department shall develop a low-cost~~  
37 ~~voluntary program to further reduce generation of hazardous waste~~  
38 ~~by large businesses in California. The program shall be designed~~  
39 ~~to promote cooperative relationships between California business~~  
40 ~~and the department, while creating a significant environmental~~

1 benefit from reduced hazardous waste generation. The department  
2 shall include the program in the work plan required by Section  
3 25244.22 on or before January 15, 2002.

4 (d) In designing and implementing the program the department  
5 shall take into consideration all of the following:

6 (1) Estimates of the volumes of potential reductions of hazardous  
7 waste generation and other possible program benefits.

8 (2) The types of facilities expected to participate and their  
9 current hazardous waste generation and other releases of toxic  
10 chemicals into the environment.

11 (3) The potential for reductions in hazardous waste generation  
12 resulting in an increase in releases of toxic chemicals to a different  
13 environmental medium.

14 (4) The potential public health and environmental benefits of  
15 the program.

16 (5) Methods for publicizing the program and encouraging  
17 facilities throughout the state to participate in the program.

18 (6) Providing appropriate public recognition of facilities that  
19 successfully are participating in the program.

20 (7) Establishing a means for monitoring the progress that each  
21 facility participating in the program is making toward implementing  
22 the program.

23 (8) Establishing methods for evaluating the implementation of  
24 the inventory, analysis, and program and for reporting on the  
25 progress of the program in the work plan required pursuant to  
26 Section 25244.22.

27 (9) Procedures for providing technical support to program  
28 participants to assist with the implementation of the program.

29 (e) Participation in the program shall not create a presumption  
30 that the participating facility has determined that any chemical  
31 release reduction measure is technically feasible or economically  
32 practicable pursuant to any other provision of law.

33 (f) Actions of the department pursuant to this section are exempt  
34 from the requirements of Chapter 3.5 (commencing with Section  
35 11340) of Division 3 of Title 2 of the Government Code.

36 (g) If, on the basis of the inventory and analysis required by in  
37 subdivision (b), the department finds that it is not possible to design  
38 and implement, at relatively low cost, a voluntary program to  
39 promote cooperative relationships between California business  
40 and the department, while creating a significant environmental

1 ~~benefit, and the advisory committee concurs with this finding, the~~  
2 ~~department is not required to implement the program.~~

3 *SEC. 59. Section 25269.2 of the Health and Safety Code is*  
4 *amended to read:*

5 25269.2. (a) The department shall comply with this chapter  
6 when recovering oversight costs for corrective action pursuant to  
7 Chapter 6.5 (commencing with Section 25100), for removal or  
8 remedial action pursuant to Chapter 6.8 (commencing with Section  
9 25300), and for response actions pursuant to *former* Chapter 6.85  
10 (commencing with Section 25396).

11 (b) The department shall develop a concise statement of its cost  
12 recovery policies and billing procedures, including dispute  
13 resolution procedures and availability of program guidance and  
14 policies, and distribute the statement to all responsible parties.

15 *SEC. 60. Section 25299.50.3 of the Health and Safety Code is*  
16 *amended to read:*

17 25299.50.3. (a) For purposes of this section, “school district”  
18 means a school district as defined in Section 80 of the Education  
19 Code, or a county office of education.

20 (b) The School District Account is hereby created in the  
21 Underground Storage Tank Cleanup Fund, for expenditure by the  
22 board to pay a claim filed by a district that is a school district and  
23 has a priority based on paragraph (2), (3), or (4) of subdivision (b)  
24 of Section 25299.52. Notwithstanding Section 25299.52, in the  
25 2009–10, 2010–11, and 2011–12 fiscal years, the board shall pay  
26 a claim filed by a district that is a school district and has a priority  
27 based on paragraph (4) of subdivision (b) of Section 25299.52  
28 only from funds appropriated from the School District Account.

29 (c) (1) The sum of ten million dollars (\$10,000,000) per year  
30 shall be transferred, in the 2009–10, 2010–11, and 2011–12 fiscal  
31 years, from the Underground Storage Tank Cleanup Fund to the  
32 School District Account, for expenditure, upon appropriation by  
33 the Legislature, for the payment of claims filed by a district that  
34 is a school district with a priority based on paragraph (2), (3), or  
35 (4) of subdivision (b) of Section 25299.52. The ten million dollars  
36 (\$10,000,000) shall be transferred to the School District Account  
37 prior to allocating the remaining available funds to each priority  
38 ranking in paragraphs (1), (2), (3), and (4) of subdivision (b) of  
39 Section 25299.52.

(2) The board shall consult with the Department of Toxic Substances Control in allocating the funds transferred to the School District Account.

(3) The board shall pay claims from a school district with a priority based on paragraph (4) of subdivision (b) of Section 25299.52 from the School District Account in the order of the date of the filing of the claim application to the Underground Storage Tank Cleanup Fund. In each of the fiscal years identified in subdivision (b), if the board estimates that money will be available in the School District Account after the board has allocated funding for all submitted claims from school districts with a priority based on paragraph (4) of subdivision (b) of Section 25299.52, School District Account funds may be used to fund school district claims with a priority based on paragraph (2) or (3) of subdivision (b) of Section 25299.52.

(d) Funds in the School District Account that are not expended in ~~the 2009-10 or 2010-11~~ a fiscal year shall remain in the School District Account. ~~Unencumbered funds~~ Funds remaining in the School District Account on ~~July~~ January 1, ~~2012, 2016,~~ shall be transferred to the Underground Storage Tank Cleanup Fund. ~~Encumbered funds remaining in the School District Account on July 1, 2012, shall remain in the School District Account. Those encumbered funds remaining in the School District Account on July 1, 2012, shall be liquidated on or before June 30, 2014.~~

(e) The board shall include information on the expenditure of the funds transferred to the School District Account, as well as the amount of all claims filed by districts that are school districts and the amount of reimbursements made to districts that are school districts from the Underground Storage Tank Cleanup Fund, in its annual report, and shall, in consultation with the Department of Toxic Substances Control, estimate the amount of funds needed to reimburse anticipated future claims by districts that are school districts. The board shall provide a copy of this report to the State Allocation Board and the State Department of Education.

(f) This section does not affect the priority of a district that is a school district and has a priority based on paragraph (2) or (3) of subdivision (b) of Section 25299.52.

(g) This section shall remain in effect only until ~~July~~ January 1, ~~2014, 2016,~~ and as of that date is repealed, unless a later enacted

1 statute, that is enacted before ~~July~~ January 1, 2014, 2016, deletes  
2 or extends that date.

3 *SEC. 61. Section 25299.81 of the Health and Safety Code is*  
4 *amended to read:*

5 25299.81. (a) Except as provided in subdivisions (b) and (c),  
6 this chapter shall remain in effect only until January 1, 2016, and  
7 as of that date is repealed, unless a later enacted statute, which is  
8 enacted before January 1, 2016, deletes or extends that date.

9 (b) Notwithstanding subdivision (a), Article 1 (commencing  
10 with Section 25299.10), Article 2 (commencing with Section  
11 25299.11), and Article 4 (commencing with Section 25299.36)  
12 shall not be repealed and shall remain in effect on January 1, 2016.

13 (c) The repeal of certain portions of this chapter does not  
14 terminate any of the following rights, obligations, or authorities,  
15 or any provision necessary to carry out these rights and obligations:

16 (1) The filing and payment of claims against the fund, including  
17 the costs specified in subdivisions (c), (e), and (h) of Section  
18 25299.51, *claims filed under Section 25299.50.3*, and claims for  
19 commingled plumes, as specified in Article 11 (commencing with  
20 Section 25299.90), until the moneys in the fund are exhausted.  
21 Upon exhaustion of the fund, any remaining claims shall be invalid.

22 (2) The repayment of loans, outstanding as of January 1, 2016,  
23 due and payable to the board.

24 (3) The recovery of moneys reimbursed to a claimant to which  
25 the claimant is not entitled, or the resolution of any cost recovery  
26 action.

27 (4) The collection of unpaid fees that are imposed pursuant to  
28 Article 5 (commencing with Section 25299.40), as that article read  
29 on December 31, 2015, or have become due before January 1,  
30 2016, including any interest or penalties that accrue before, on, or  
31 after January 1, 2016, associated with those unpaid fees.

32 (5) (A) The filing of an application for funds from, and the  
33 making of payments from, the Underground Storage Tank  
34 Petroleum Contamination Orphan Site Cleanup Fund pursuant to  
35 Section 25299.50.2, any action for the recovery of moneys paid  
36 pursuant to Section 25299.50.2 to which the recipient is not  
37 entitled, and the resolution of that cost recovery action.

38 (B) Upon liquidation of funds in the Underground Storage Tank  
39 Petroleum Contamination Orphan Site Cleanup Fund, the obligation

1 to make a payment from the Underground Storage Tank Petroleum  
2 Contamination Orphan Site Cleanup Fund is terminated.

3 (6) (A) The payment of loans and grants, consistent with the  
4 terms of agreements that were effective prior to January 1, 2016,  
5 from the Underground Storage Tank Cleanup Fund, pursuant to  
6 this chapter or the Petroleum Underground Storage Tank Financing  
7 Account pursuant to Chapter 6.76 (commencing with Section  
8 25299.100). Upon exhaustion of the Underground Storage Tank  
9 Cleanup Fund, any remaining claims for payment of grants or  
10 loans shall be invalid.

11 (B) The amount of money disbursed for grants and loans  
12 pursuant to Chapter 6.76 (commencing with Section 25299.100)  
13 shall not exceed the sum of following:

14 (i) The amount that reverts to the Underground Storage Tank  
15 Cleanup Fund pursuant to Section 25299.111.

16 (ii) Amounts recovered through the repayment of loans granted  
17 pursuant to Chapter 6.76 (commencing with Section 25299.100).

18 (iii) The resolution of any cost recovery action filed prior to  
19 January 1, 2016, or the initiation of an action or other collection  
20 process to recover defaulted loan moneys due to the board or to  
21 recover money paid to a grant or loan recipient pursuant to Chapter  
22 6.76 (commencing with Section 25299.100) to which the recipient  
23 is not entitled.

24 (d) The board shall continuously post and update on its Internet  
25 Web site, but at a minimum, annually on or before September 30,  
26 information that describes the status of the fund and shall make  
27 recommendations, when appropriate, to improve the efficiency of  
28 the program.

29 *SEC. 62. Section 25356.2 of the Health and Safety Code is*  
30 *repealed.*

31 ~~25356.2. (a) There is hereby created in the Office of~~  
32 ~~Environmental Health Hazard Assessment a Hazardous Substance~~  
33 ~~Cleanup Arbitration Panel.~~

34 ~~(b) The panel shall apportion liability for the costs of removal~~  
35 ~~and remedial actions in accordance with Sections 25356.3 and~~  
36 ~~25356.4. All meetings and records of the panel are exempt from~~  
37 ~~Chapter 3.5 (commencing with Section 6250) of Division 7 of~~  
38 ~~Title 1 of, and Article 9 (commencing with Section 11120) of~~  
39 ~~Chapter 1 of Part 1 of Division 3 of Title 2 of, the Government~~  
40 ~~Code.~~

~~(e) The panel shall be comprised of independent private arbitrators who have applied to the Office of Environmental Health Hazard Assessment for membership on the panel. Panel members shall have (1) relevant arbitration background and (2) expertise in engineering, expertise in the physical, biological, or health sciences, or other relevant experience and qualifications. Three arbitrators shall be selected from the panel to apportion liability for a single hazardous wastesite. A majority of the arbitrators selected for a single site may apportion liability for the panel under this chapter.~~

~~(d) The arbitrators shall be selected for an individual hazardous wastesite as follows:~~

~~(1) One arbitrator shall be selected by the department or by the regional water quality control board.~~

~~(2) One arbitrator shall be selected by the potentially responsible party, or a majority of the potentially responsible parties, who have submitted to binding arbitration by the panel.~~

~~(3) The two arbitrators selected pursuant to paragraphs (1) and (2) shall jointly select a third arbitrator.~~

*SEC. 63. Section 25356.3 of the Health and Safety Code is repealed.*

~~25356.3. (a) The department or the California regional water quality control board shall serve a copy by mail of the draft remedial action plan upon all potentially responsible parties identified in the plan. Within 15 days after the issuance of a final remedial action plan, any potentially responsible parties with aggregate alleged liability in excess of 50 percent of the costs of removal and remedial action, as set forth in the statement of reasons issued pursuant to subdivision (d) of Section 25356.1, but excluding any costs that are the subject of an agreement under which any party agrees to assume liability for those costs, may convene an arbitration proceeding by agreeing to submit to binding arbitration by the panel. The filing of a demand to convene an arbitration panel shall not stay any removal or remedial actions specified in the plan. If an arbitration panel is convened pursuant to this section, any other potentially responsible party may elect to submit to binding arbitration by the panel. Any person submitting to arbitration under this section shall agree not to contest the fact of liability in the arbitration. The panel shall, and the parties are entitled to, address the proper apportionment of liability pursuant to subdivision (b). Submission to arbitration under this~~

1 section is not an admission of liability for any other purpose or in  
2 any other proceeding, including a subsequent arbitration proceeding  
3 concerning the same site. The department or the regional water  
4 quality control board, whichever issued the final remedial action  
5 plan, shall participate in the arbitration proceedings to the same  
6 extent as the potentially responsible parties which have submitted  
7 to the arbitration.

8 (b) The panel shall apportion liability for the costs of all removal  
9 and remedial actions specified in the final remedial action plan.

10 (c) In panel proceedings, liability for the costs of removal and  
11 remedial actions shall be apportioned among all identifiable  
12 potentially responsible parties regardless of whether those parties  
13 are before the panel or have otherwise been released, or are  
14 immune, from liability pursuant to this chapter or any other  
15 provision of law. The panel shall apportion liability based on all  
16 of the following criteria:

17 (1) The amount of hazardous substance for which each party  
18 may be responsible.

19 (2) The degree of toxicity of the hazardous substance.

20 (3) The degree of involvement of the potentially responsible  
21 parties in the generation, transportation, treatment, or disposal of  
22 the hazardous substance.

23 (4) The degree of care exercised by the potentially responsible  
24 parties with respect to the hazardous substances, taking into account  
25 the characteristics of the substance.

26 (5) The degree of cooperation by the potentially responsible  
27 parties with federal, state, and local officials to prevent harm to  
28 human health and the environment.

29 (d) The panel may issue subpoenas and subpoenas duces tecum  
30 to require attendance of a person or the production of documents,  
31 at the request of any person identified as potentially responsible  
32 in the remedial action plan, on its own motion, or at the request of  
33 the department or the appropriate regional water quality control  
34 board. A person requesting a subpoena duces tecum shall comply  
35 with Section 1985 of the Code of Civil Procedure. The jurisdiction  
36 of subpoenas and subpoenas duces tecum issued by the panel  
37 extends to all parts of the state. The subpoenas and subpoenas  
38 duces tecum shall be served pursuant to Sections 1987 and 1988  
39 of the Code of Civil Procedure.



1 If the panel determines that a person is refusing to respond to a  
2 subpoena or subpoena duces tecum, or is guilty of a misconduct  
3 during the arbitration and negotiation process, the panel shall  
4 certify the facts to the superior court of the county in which the  
5 site is located. The court shall thereupon issue an order directing  
6 the person to appear before the court and show cause why the  
7 person should not be punished for contempt pursuant to Section  
8 1209 of the Code of Civil Procedure. The order and a copy of the  
9 certified statement shall be served on the person, and thereafter  
10 the court shall have jurisdiction of the matter. The same  
11 proceedings shall be followed, the same penalties may be imposed,  
12 and the person charged may be purged of contempt in the same  
13 way as if the person has committed a contempt in the trial of a  
14 civil action before a superior court.

15 After receipt of documents pursuant to a subpoena duces tecum,  
16 any party may request the panel for a continuance for a reasonable  
17 period of time to review the documents prior to proceeding with  
18 the arbitration. The panel may grant a continuance for that purpose  
19 upon a showing of good cause.

20 (e) This chapter does not require a regional water quality control  
21 board or the State Water Resources Control Board to engage in  
22 arbitration pursuant to this section or Section 25356.2 for any  
23 enforcement action taken pursuant to Division 7 (commencing  
24 with Section 13000) of the Water Code.

25 (f) The costs of conducting the arbitration shall be borne by the  
26 potentially responsible parties submitting to the arbitration pursuant  
27 to subdivision (a), except that any filing fees, witness fees, costs  
28 of discovery, or any other costs necessarily incurred by one party  
29 shall not be shared by any other party.

30 *SEC. 64. Section 25356.4 of the Health and Safety Code is*  
31 *repealed.*

32 25356.4. (a) After making an apportionment of liability among  
33 the potentially responsible parties pursuant to Section 25356.3,  
34 the panel shall prepare a draft arbitration decision which contains  
35 a statement of reasons supporting the apportionment and shall  
36 circulate the draft arbitration decision for at least 30 days for public  
37 comment. After review and consideration of any public comment,  
38 the panel shall issue the final arbitration decision within 30 days  
39 after the comment period.

~~(b) Each potentially responsible party whose liability has been apportioned by the panel is liable to the department or the regional water quality control board for its apportioned share of the costs of all removal and remedial actions at the site which is the subject of the final remedial action plan issued pursuant to Section 25356.1. The department or the regional water quality control board and one or more potentially responsible parties may enter into a cleanup agreement which is consistent with the remedial action plan and which provides for the satisfaction of the liability of a potentially responsible party by the party's performance of specified removal or remedial actions at the site.~~

~~(c) The moneys in the state account may be expended, upon appropriation by the Legislature, to pay any share of those potentially responsible parties who did not submit to binding arbitration pursuant to Section 25356.3 or did not otherwise agree to pay the costs of the removal and remedial actions specified in the remedial action plan.~~

~~(d) The department or the regional water quality control board shall identify, and the Attorney General shall pursue recovery from, those potentially responsible parties who have not submitted to binding arbitration pursuant to Section 25356.3 or who have not discharged their obligations required by the final arbitration decision or the cleanup agreement.~~

~~(e) Advances from the state account, upon appropriation by the Legislature, shall be made available, where appropriate, to those responsible parties who are required by a cleanup agreement to perform specified removal or remedial actions pursuant to the remedial action plan or, if the money advanced derives from the proceeds of bonds sold pursuant to Article 7.5 (commencing with Section 25385), for the purposes specified in Section 25385.6.~~

*SEC. 65. Section 25356.5 of the Health and Safety Code is repealed.*

~~25356.5. The department shall include in the biennial report specified in Section 25178 an accounting of all of the following:~~

~~(a) The actual funds expended for each site listed during the preceding two years pursuant to Section 25356.~~

~~(b) Removal and remedial actions at hazardous substance release sites pursuant to Section 25356.~~

~~(c) The state's efforts to obtain available federal funds for the purposes of this chapter.~~

1 ~~(d) Federal funds which have been obtained by, or committed~~  
2 ~~to, the state for purposes of this chapter.~~

3 ~~(e) The state's efforts to obtain contributions to removal or~~  
4 ~~remedial actions from potentially responsible parties.~~

5 *SEC. 66. Section 25356.6 of the Health and Safety Code is*  
6 *repealed.*

7 ~~25356.6. (a) Notwithstanding any other provision of state law~~  
8 ~~or any local ordinance or regulation, except as provided in~~  
9 ~~subdivision (b), to encourage the prompt and effective cleanup of~~  
10 ~~hazardous substance release sites, a potentially responsible party~~  
11 ~~has no additional civil liability to any governmental entity under~~  
12 ~~state or local law, for any prior acts or omissions associated with~~  
13 ~~the conditions addressed in the remedial action plan which is the~~  
14 ~~subject of the arbitration decision, if the potentially responsible~~  
15 ~~party has submitted to binding arbitration and has discharged its~~  
16 ~~obligations under the arbitration decision, either by paying that~~  
17 ~~party's apportioned share of the costs of all removal and remedial~~  
18 ~~actions to the department or the regional water quality control~~  
19 ~~board, or by performing the specified removal and remedial actions~~  
20 ~~pursuant to a cleanup agreement. The release from liability~~  
21 ~~specified in this section is conditioned on complete implementation~~  
22 ~~of the remedial action plan, including, where appropriate, adequate~~  
23 ~~sampling, testing, and maintenance of the site to which the remedial~~  
24 ~~action plan is applicable to ensure that the level of cleanup required~~  
25 ~~is achieved and maintained. However, this section does not affect~~  
26 ~~the liability of any person for costs recoverable under Section~~  
27 ~~25352, unless these costs are specifically addressed in the~~  
28 ~~arbitration decision or cleanup agreement. Where these costs are~~  
29 ~~not addressed in the arbitration decision or cleanup agreement, the~~  
30 ~~liability for these costs shall be determined pursuant to the~~  
31 ~~applicable sections of this chapter and may be apportioned among~~  
32 ~~the potentially responsible parties pursuant to Sections 25356.3~~  
33 ~~and 25356.4.~~

34 ~~(b) The department, the California regional water quality control~~  
35 ~~board, any party to the arbitration decision, or any party~~  
36 ~~substantially affected by the arbitration decision may petition the~~  
37 ~~panel to modify the apportionment of liability in an arbitration~~  
38 ~~decision. Upon a showing of a material change in the facts known~~  
39 ~~to the parties to the arbitration decision at the time it was issued,~~  
40 ~~the panel shall modify the apportionment of liability specified in~~

1 the arbitration decision, as appropriate, to reflect these changed  
2 facts. Upon a showing of a material change in the facts known to  
3 the department at the time it issued the final remedial action plan,  
4 or the discovery of new facts, the department or regional board  
5 shall modify the remedial action plan, as appropriate, to reflect  
6 new or additional facts. The arbitration panel shall then modify its  
7 arbitration decision to reflect any modification of the remedial  
8 action plan made by the department.

9 (e) This section does not affect the existing rights of any  
10 individual to recover civil damages or to obtain equitable relief  
11 against any person, including a potentially responsible party, for  
12 physical injury or property damage caused by the release of  
13 hazardous substances at the site covered by the arbitration decision  
14 or at any other location.

15 (d) A party who has submitted to arbitration pursuant to this  
16 article and whose liability has been apportioned by the arbitration  
17 panel in an arbitration proceeding may seek indemnity from any  
18 other person liable for the party's apportioned share of the removal  
19 and remedial actions taken at a site which is the subject of the  
20 arbitration decision, including any department, agency contractor,  
21 or any other governmental agency. A potentially responsible party  
22 who does not submit to binding arbitration pursuant to this article,  
23 but whose liability has been apportioned in the arbitration decision  
24 and is subsequently found liable under this chapter has no right to  
25 indemnification for any removal or remedial action which is the  
26 subject of the arbitration decision from any party to that arbitration  
27 decision who has discharged its obligation under the arbitration  
28 decision or the cleanup agreement.

29 *SEC. 67. Section 25356.7 of the Health and Safety Code is*  
30 *repealed.*

31 25356.7.—In order to encourage rapid resolution of differences  
32 among responsible parties and to speed the cleanup of sites, and  
33 notwithstanding any other provision of law, the following evidence  
34 is admissible in a court of law only to show the good faith of the  
35 parties who have discharged their obligations under an arbitration  
36 decision issued, or cleanup agreement entered into, pursuant to  
37 Section 25356.4 or that the following removal and remedial actions  
38 specified in the remedial action plan were to be performed:

39 (a) A preliminary allocation of responsibility pursuant to Section  
40 25356.1.

1 ~~(b) The fact that any person has either participated or has not~~  
2 ~~participated in a panel arbitration proceeding.~~

3 ~~(c) The fact that any person has voluntarily implemented a~~  
4 ~~remedial action plan, regardless of whether the plan is final for~~  
5 ~~purposes of Section 25356.1.~~

6 ~~(d) Any finding of fact or conclusion of law by the panel,~~  
7 ~~including the apportionment of liability pursuant to Section~~  
8 ~~25356.3.~~

9 ~~(e) Admissions made during the arbitration proceeding.~~

10 ~~(f) Documents prepared by a party which has submitted to~~  
11 ~~binding arbitration if the documents are prepared after the remedial~~  
12 ~~action plan has been issued, and if the documents are prepared~~  
13 ~~solely for the arbitration.~~

14 *SEC. 68. Section 25356.8 of the Health and Safety Code is*  
15 *repealed.*

16 ~~25356.8. (a) Judicial review of the arbitration decision on the~~  
17 ~~apportionment of liability is limited to a showing of fraud by a~~  
18 ~~party to the arbitration proceeding or an abuse of discretion by the~~  
19 ~~panel, or both.~~

20 ~~(b) Judicial review of a decision by the department or the~~  
21 ~~regional water quality control board modifying the remedial action~~  
22 ~~plan pursuant to subdivision (b) of Section 25356.6 shall be~~  
23 ~~conducted pursuant to Section 1085 of the Code of Civil Procedure~~  
24 ~~and the standard of review shall be the same as that specified in~~  
25 ~~subdivision (f) of Section 25356.1.~~

26 *SEC. 69. Section 25356.9 of the Health and Safety Code is*  
27 *repealed.*

28 ~~25356.9. (a) The provisions of this chapter relating to the~~  
29 ~~preparation, approval, and issuance of remedial action plans and~~  
30 ~~to procedures for the apportionment of liability by the Hazardous~~  
31 ~~Substance Cleanup Arbitration Panel do not do either of the~~  
32 ~~following:~~

33 ~~(1) Apply to any actions taken pursuant to Chapter 6.5~~  
34 ~~(commencing with Section 25100).~~

35 ~~(2) Prohibit the department or the Attorney General, upon the~~  
36 ~~request of the department, from pursuing the remedies specified~~  
37 ~~in subdivision (a) of Section 25358.3 when the director determines~~  
38 ~~that there may be an imminent or substantial endangerment to the~~  
39 ~~public health or welfare or to the environment, because of a release~~  
40 ~~or a threatened release of a hazardous substance.~~

~~(b) The department and the Attorney General may pursue any existing legal, equitable, or administrative remedies, pursuant to federal or state law, against any potentially responsible party named in a remedial action plan if the party does not submit to arbitration pursuant to Section 25356.3 or if the party has not discharged that party's obligations under an arbitration decision or cleanup agreement.~~

*SEC. 70. Section 25356.10 of the Health and Safety Code is repealed.*

~~25356.10. The Office of Environmental Health Hazard Assessment shall adopt, and may, from time to time, modify, revise, or repeal, regulations, consistent with this article, to implement the provisions of this article concerning arbitration proceedings. The regulations may include, but are not required to be limited to, all of the following:~~

- ~~(a) The method of initiating arbitration.~~
- ~~(b) The place of hearing, based upon the convenience of the parties.~~
- ~~(c) Procedures for the selection of neutral arbitrators.~~
- ~~(d) Procedure for conducting hearings.~~
- ~~(e) The providing of experts to assist the arbitrators if assistance is needed.~~
- ~~(f) Procedures for reimbursing the expenses which the panel incurs in conducting arbitrations.~~

*SEC. 71. Article 6.5 (commencing with Section 25369) of Chapter 6.8 of Division 20 of the Health and Safety Code is repealed.*

*SEC. 72. Section 25390.7 of the Health and Safety Code is amended to read:*

25390.7. A claim for reimbursement under paragraph (1) of subdivision (c) of Section 25390.3 shall not be filed for any of the following:

- (a) Sites listed on the National Priorities List pursuant to the federal act (42 U.S.C. Sec. 9605(a)(8)(B)).
- (b) Sites remediated pursuant to *former* Chapter 6.85 (commencing with Section 25396).
- (c) Sites, or portions of sites, for which the potentially responsible party has agreed to take all response action required by the department or the regional board at the site, and that agreement is embodied in a written, enforceable settlement

1 agreement, including, but not limited to, a judicial consent decree,  
2 entered into prior to January 1, 1999.

3 (d) Sites, or portions of sites, that have been fully remediated  
4 for which the department or the regional board has determined  
5 that the response action is complete prior to January 1, 1999. The  
6 department or the regional board shall not include operation and  
7 maintenance activities in determining whether the response action  
8 is complete under this section.

9 *SEC. 73. Article 8 (commencing with Section 25395.1) of*  
10 *Chapter 6.8 of Division 20 of the Health and Safety Code is*  
11 *repealed.*

12 *SEC. 74. Section 25395.30 of the Health and Safety Code is*  
13 *amended to read:*

14 25395.30. The following persons are not eligible to apply for  
15 a loan under this article:

16 (a) A person who has been convicted of a felony or  
17 misdemeanor involving the regulation of hazardous materials,  
18 including, but not limited to, a conviction of a felony or  
19 misdemeanor under *former* Section 25395.13.

20 (b) A person who has been convicted of a felony or  
21 misdemeanor involving moral turpitude, including, but not limited  
22 to, the crimes of fraud, bribery, the falsification of records, perjury,  
23 forgery, conspiracy, profiteering, or money laundering.

24 (c) A person who is in violation of an administrative order or  
25 agreement issued by or entered into with any federal, state, or local  
26 agency that requires response action at a site or a judicial order or  
27 consent decree that requires response action at a site.

28 (d) A person who knowingly made a false statement regarding  
29 a material fact or knowingly failed to disclose a material fact in  
30 connection with an application submitted to the secretary under  
31 this article.

32 *SEC. 75. Section 25395.99 of the Health and Safety Code is*  
33 *amended to read:*

34 25395.99. (a) A response plan may require the use of a land  
35 use control that imposes appropriate conditions, restrictions, and  
36 obligations on land use or activities, if, after completion of the  
37 removal and remedial actions specified in the response plan,  
38 hazardous materials remain at the site at a level that is not suitable  
39 for the unrestricted use of the site.

(b) Except as provided in subdivision (c), if the agency approves a response plan that requires the use of a land use control, the land use control shall be executed by the landowner and recorded by the landowner in the office of the county recorder in each county in which all, or a portion of, the land is located within 10 days of the date of execution.

(c) An agency shall not issue a certificate of completion to a person who submits a response plan that is approved by the agency and that requires the use of a land use control, until the agency receives a certified copy of the recorded land use control. If the site that requires the land use control does not have an owner, or the agency determines the owner is incapable of executing a land use control in accordance with this section, the agency may record in the county records a “Notice of Land Use Restriction” that has the same effect as any other land use control executed pursuant to this section, and that is subject to the variance and termination procedures specified in subdivision (f).

(d) Notwithstanding any other provision of law, a land use control that is executed pursuant to this section and that is recorded so as to provide constructive notice shall run with the land from the date of recordation, is binding upon all of the owners of the land, and their heirs, successors and assignees, and the agents, employees, or lessees of the owners, heirs, successors and assignees, and is enforceable pursuant to Article 8 (commencing with Section 25180) of Chapter 6.5.

(e) Notwithstanding any other provision of law, a land use control executed pursuant to this section is subject to Section 57012.

(f) A land use control imposed pursuant to this section is subject to the variance and removal procedures specified in Sections ~~25233~~ 25223 and ~~25234~~ 25224.

*SEC. 76. Section 25395.119 of the Health and Safety Code is amended to read:*

25395.119. (a) Using existing resources or when funds become available, the Secretary for Environmental Protection shall designate a brownfields ombudsperson whose responsibilities shall include, but are not limited to, all of the following:

(1) Assisting in the coordination of the brownfields activities of each office, board, and department within the California Environmental Protection Agency.



1 (2) Advocating and expanding the relationship between the  
2 California Environmental Protection Agency and local, state, and  
3 federal governmental entities' efforts pertaining to brownfields.

4 (3) Serving as the California Environmental Protection Agency's  
5 representative on committees, working groups, and other  
6 organizations pertaining to brownfields.

7 (4) Providing assistance in investigating complaints from the  
8 public, and helping to resolve and coordinate the resolution of  
9 those complaints relating to the brownfields activities of each  
10 office, board, and department within the California Environmental  
11 Protection Agency.

12 (5) Facilitating and advocating that the issue of environmental  
13 justice for communities most impacted, including low-income and  
14 racial minority populations, is considered in brownfields activities  
15 of each office, board, and department within the California  
16 Environmental Protection Agency.

17 ~~(6) Assisting the California Environmental Protection Agency~~  
18 ~~in implementing the guidelines established under Section 25401.2.~~

19 (b) The brownfield ombudsperson is not authorized to make or  
20 reverse a decision of an office, board, or department within the  
21 California Environmental Protection Agency.

22 SEC. 77. Chapter 6.85 (commencing with Section 25396) of  
23 Division 20 of the Health and Safety Code is repealed.

24 SEC. 78. Chapter 6.86 (commencing with Section 25396) is  
25 added to Division 20 of the Health and Safety Code, to read:

26  
27 CHAPTER 6.86. EXPEDITED REMEDIATION

28  
29 25396. The requirements of the former California Expedited  
30 Remedial Action Reform Act of 1994 (former Chapter 6.85  
31 (commencing with Section 25396) of Division 20) continue to apply  
32 to sites selected before the effective date of this chapter for  
33 participation in the pilot program established by that act.

34 SEC. 79. Chapter 6.10 (commencing with Section 25401) of  
35 Division 20 of the Health and Safety Code is repealed.

36 SEC. 80. Section 25404 of the Health and Safety Code is  
37 amended to read:

38 25404. (a) For purposes of this chapter, the following terms  
39 shall have the following meanings:

1 (1) (A) “Certified Unified Program Agency” or “CUPA” means  
2 the agency certified by the secretary to implement the unified  
3 program specified in this chapter within a jurisdiction.

4 (B) “Participating Agency” or “PA” means a state or local  
5 agency that has a written agreement with the CUPA pursuant to  
6 subdivision (d) of Section 25404.3, and is approved by the  
7 secretary, to implement or enforce one or more of the unified  
8 program elements specified in subdivision (c), in accordance with  
9 Sections 25404.1 and 25404.2.

10 (C) “Unified Program Agency” or “UPA” means the CUPA, or  
11 its participating agencies to the extent each PA has been designated  
12 by the CUPA, pursuant to a written agreement, to implement or  
13 enforce a particular unified program element specified in  
14 subdivision (c). The UPAs have the responsibility and authority  
15 to implement and enforce the requirements listed in subdivision  
16 (c), and the regulations adopted to implement the requirements  
17 listed in subdivision (c), to the extent provided by Chapter 6.5  
18 (commencing with Section 25100), Chapter 6.67 (commencing  
19 with Section 25270), Chapter 6.7 (commencing with Section  
20 25280), Chapter 6.95 (commencing with Section 25500), and  
21 Sections 25404.1 and 25404.2. After a CUPA has been certified  
22 by the secretary, the unified program agencies and the state  
23 agencies carrying out responsibilities under this chapter shall be  
24 the only agencies authorized to enforce the requirements listed in  
25 subdivision (c) within the jurisdiction of the CUPA.

26 (2) “Department” means the Department of Toxic Substances  
27 Control.

28 (3) “Minor violation” means the failure of a person to comply  
29 with a requirement or condition of an applicable law, regulation,  
30 permit, information request, order, variance, or other requirement,  
31 whether procedural or substantive, of the unified program that the  
32 UPA is authorized to implement or enforce pursuant to this chapter,  
33 and that does not otherwise include any of the following:

34 (A) A violation that results in injury to persons or property, or  
35 that presents a significant threat to human health or the  
36 environment.

37 (B) A knowing, willful, or intentional violation.

38 (C) A violation that is a chronic violation, or that is committed  
39 by a recalcitrant violator. In determining whether a violation is  
40 chronic or a violator is recalcitrant, the UPA shall consider whether

1 there is evidence indicating that the violator has engaged in a  
2 pattern of neglect or disregard with respect to applicable regulatory  
3 requirements.

4 (D) A violation that results in an emergency response from a  
5 public safety agency.

6 (E) A violation that enables the violator to benefit economically  
7 from the noncompliance, either by reduced costs or competitive  
8 advantage.

9 (F) A class I violation as provided in Section 25117.6.

10 (G) A class II violation committed by a chronic or a recalcitrant  
11 violator, as provided in Section 25117.6.

12 (H) A violation that hinders the ability of the UPA to determine  
13 compliance with any other applicable local, state, or federal rule,  
14 regulation, information request, order, variance, permit, or other  
15 requirement.

16 (4) “Secretary” means the Secretary for Environmental  
17 Protection.

18 (5) “Unified program facility” means all contiguous land and  
19 structures, other appurtenances, and improvements on the land  
20 that are subject to the requirements listed in subdivision (c).

21 (6) “Unified program facility permit” means a permit issued  
22 pursuant to this chapter. For the purposes of this chapter, a unified  
23 program facility permit encompasses the permitting requirements  
24 of Section 25284, and permit or authorization requirements under  
25 a local ordinance or regulation relating to the generation or  
26 handling of hazardous waste or hazardous materials, but does not  
27 encompass the permitting requirements of a local ordinance that  
28 incorporates provisions of the California Fire Code or the  
29 California Building Code.

30 (b) The secretary shall adopt implementing regulations and  
31 implement a unified hazardous waste and hazardous materials  
32 management regulatory program, which shall be known as the  
33 unified program, after holding an appropriate number of public  
34 hearings throughout the state. The unified program shall be  
35 developed in close consultation with the director, the Secretary of  
36 California Emergency Management, the State Fire Marshal, the  
37 executive officers and chairpersons of the State Water Resources  
38 Control Board and the California regional water quality control  
39 boards, the local health officers, local fire services, and other  
40 appropriate officers of interested local agencies, and affected

1 businesses and interested members of the public, including  
2 environmental organizations.

3 (c) The unified program shall consolidate the administration of  
4 the following requirements and, to the maximum extent feasible  
5 within statutory constraints, shall ensure the coordination and  
6 consistency of any regulations adopted pursuant to those  
7 requirements:

8 (1) (A) Except as provided in subparagraphs (B) and (C), the  
9 requirements of Chapter 6.5 (commencing with Section 25100),  
10 and the regulations adopted by the department pursuant thereto,  
11 that are applicable to all of the following:

12 (i) Hazardous waste generators, persons operating pursuant to  
13 a permit-by-rule, conditional authorization, or conditional  
14 exemption, pursuant to Chapter 6.5 (commencing with Section  
15 25100) or the regulations adopted by the department.

16 (ii) Persons managing perchlorate materials.

17 (iii) Persons subject to Article 10.1 (commencing with Section  
18 25211) of Chapter 6.5.

19 (iv) Persons operating a collection location that has been  
20 established under an architectural paint stewardship plan approved  
21 by the Department of Resources Recycling and Recovery pursuant  
22 to the architectural paint recovery program established pursuant  
23 to Chapter 5 (commencing with Section 48700) of Part 7 of  
24 Division 30 of the Public Resources Code.

25 (v) On and before December 31, 2019, a transfer facility, as  
26 described in paragraph (3) of subdivision (a) of Section 25123.3,  
27 that is operated by a door-to-door household hazardous waste  
28 collection program or household hazardous waste residential pickup  
29 service, as defined in subdivision (c) of Section 25218.1. On and  
30 after January 1, 2020, the unified program shall not include a  
31 transfer facility operated by a door-to-door household hazardous  
32 waste collection program.

33 (B) The unified program shall not include the requirements of  
34 paragraph (3) of subdivision (c) of Section 25200.3, the  
35 requirements of Sections 25200.10 and 25200.14, and the authority  
36 to issue an order under Sections 25187 and 25187.1, with regard  
37 to those portions of a unified program facility that are subject to  
38 one of the following:

39 (i) A corrective action order issued by the department pursuant  
40 to Section 25187.

1 (ii) An order issued by the department pursuant to Chapter 6.8  
2 (commencing with Section 25300) or *former* Chapter 6.85  
3 (commencing with Section 25396).

4 (iii) A remedial action plan approved pursuant to Chapter 6.8  
5 (commencing with Section 25300) or *former* Chapter 6.85  
6 (commencing with Section 25396).

7 (iv) A cleanup and abatement order issued by a California  
8 regional water quality control board pursuant to Section 13304 of  
9 the Water Code, to the extent that the cleanup and abatement order  
10 addresses the requirements of the applicable section or sections  
11 listed in this subparagraph.

12 (v) Corrective action required under subsection (u) of Section  
13 6924 of Title 42 of the United States Code or subsection (h) of  
14 Section 6928 of Title 42 of the United States Code.

15 (vi) An environmental assessment pursuant to Section 25200.14  
16 or a corrective action pursuant to Section 25200.10 or paragraph  
17 (3) of subdivision (c) of Section 25200.3, that is being overseen  
18 by the department.

19 (C) The unified program shall not include the requirements of  
20 Chapter 6.5 (commencing with Section 25100), and the regulations  
21 adopted by the department pursuant thereto, applicable to persons  
22 operating transportable treatment units, except that any required  
23 notice regarding transportable treatment units shall also be provided  
24 to the CUPAs.

25 (2) The requirements of Chapter 6.67 (commencing with Section  
26 25270) concerning aboveground storage tanks.

27 (3) (A) Except as provided in subparagraphs (B) and (C), the  
28 requirements of Chapter 6.7 (commencing with Section 25280)  
29 concerning underground storage tanks and the requirements of any  
30 underground storage tank ordinance adopted by a city or county.

31 (B) The unified program shall not include the responsibilities  
32 assigned to the State Water Resources Control Board pursuant to  
33 Section 25297.1.

34 (C) The unified program shall not include the corrective action  
35 requirements of Sections 25296.10 to 25296.40, inclusive.

36 (4) The requirements of Article 1 (commencing with Section  
37 25500) of Chapter 6.95 concerning hazardous material release  
38 response plans and inventories.

1 (5) The requirements of Article 2 (commencing with Section  
2 25531) of Chapter 6.95, concerning the accidental release  
3 prevention program.

4 (6) The requirements of Sections 2701.5.1 and 2701.5.2 of the  
5 California Fire Code, as adopted by the State Fire Marshal pursuant  
6 to Section 13143.9 concerning hazardous material management  
7 plans and inventories.

8 (d) To the maximum extent feasible within statutory constraints,  
9 the secretary shall consolidate, coordinate, and make consistent  
10 these requirements of the unified program with other requirements  
11 imposed by other federal, state, regional, or local agencies upon  
12 facilities regulated by the unified program.

13 (e) (1) The secretary shall establish standards applicable to  
14 CUPAs, participating agencies, state agencies, and businesses  
15 specifying the data to be collected and submitted by unified  
16 program agencies in administering the programs listed in  
17 subdivision (c). Those standards shall incorporate any standard  
18 developed under Section 25503.3.

19 (2) (A) No later than January 1, 2010, the secretary shall  
20 establish a statewide information management system capable of  
21 receiving all data collected by the unified program agencies and  
22 reported by regulated businesses pursuant to this subdivision and  
23 Section 25504.1, in a manner that is most cost efficient and  
24 effective for both the regulated businesses and state and local  
25 agencies. The secretary shall prescribe an XML or other compatible  
26 Web-based format for the transfer of data from CUPAs and  
27 regulated businesses and make all nonconfidential data available  
28 on the Internet.

29 (B) The secretary shall establish milestones to measure the  
30 implementation of the statewide information management system  
31 and shall provide periodic status updates to interested parties.

32 (3) (A) (i) Except as provided in subparagraph (B), in addition  
33 to any other funding that becomes available, the secretary shall  
34 increase the oversight surcharge provided for in subdivision (b)  
35 of Section 25404.5 by an amount necessary to meet the  
36 requirements of this subdivision for a period of three years, to  
37 establish the statewide information management system, consistent  
38 with paragraph (2). The increase in the oversight surcharge shall  
39 not exceed twenty-five dollars (\$25) in any one year of the  
40 three-year period. The secretary shall thereafter maintain the

1 statewide information management system, funded by the  
2 assessment the secretary is authorized to impose pursuant to  
3 Section 25404.5.

4 (ii) No less than 75 percent of the additional funding raised  
5 pursuant to clause (i) shall be provided to CUPAs and PAs through  
6 grant funds or statewide contract services, in the amounts  
7 determined by the secretary to assist these local agencies in meeting  
8 these information management system requirements.

9 (B) A facility that is owned or operated by the federal  
10 government and that is subject to the unified program shall pay  
11 the surcharge required by this paragraph to the extent authorized  
12 by federal law.

13 (C) The secretary, or one or more of the boards, departments,  
14 or offices within the California Environmental Protection Agency,  
15 shall seek available federal funding for purposes of implementing  
16 this subdivision.

17 (4) No later than three years after the statewide information  
18 management system is established, each CUPA, PA, and regulated  
19 business shall report program data electronically. The secretary  
20 shall work with the CUPAs to develop a phased in schedule for  
21 the electronic collection and submittal of information to be included  
22 in the statewide information management system, giving first  
23 priority to information relating to those chemicals determined by  
24 the secretary to be of greatest concern. The secretary, in making  
25 this determination shall consult with the CUPAs, the California  
26 Emergency Management Agency, the State Fire Marshal, and the  
27 boards, departments, and offices within the California  
28 Environmental Protection Agency. The information initially  
29 included in the statewide information management system shall  
30 include, but is not limited to, the hazardous materials inventory  
31 information required to be submitted pursuant to Section 25504.1  
32 for perchlorate materials.

33 (5) The secretary, in collaboration with the CUPAs, shall provide  
34 technical assistance to regulated businesses to comply with the  
35 electronic reporting requirements and may expend funds identified  
36 in clause (i) of subparagraph (A) of paragraph (3) for that purpose.

37 *SEC. 81. Chapter 6.98 (commencing with Section 25570) of*  
38 *Division 20 of the Health and Safety Code is repealed.*

39 *SEC. 82. Section 44299.91 of the Health and Safety Code is*  
40 *amended to read:*

1 44299.91. Of the funds appropriated pursuant to Item  
2 3900-001-6053 of Section 2.00 of the Budget Act of 2007, the  
3 State Air Resources Board shall allocate the funds in accordance  
4 with all of the following:

5 (a) All schoolbuses in operation in the state of model year 1976  
6 or earlier shall be replaced.

7 (b) (1) The funds remaining after the allocation made pursuant  
8 to subdivision (a) shall be apportioned to local air quality  
9 management districts and air pollution control districts based on  
10 the number of schoolbuses of model years 1977 to 1986, inclusive,  
11 that are in operation within each district.

12 (2) Each district shall determine the percentage of its allocation  
13 to spend between replacement of schoolbuses of model years 1977  
14 to 1986, inclusive, and retrofit of schoolbuses of any model year.  
15 Of the funds spent by a district for replacement of schoolbuses  
16 pursuant to this paragraph, a district shall replace the oldest  
17 schoolbuses of model years 1977 to 1986, inclusive, within the  
18 district. Of the funds spent by a district for retrofit of schoolbuses  
19 pursuant to this paragraph, a district shall retrofit the most polluting  
20 schoolbuses within the district.

21 (c) All schoolbuses replaced pursuant to this section shall be  
22 scrapped.

23 (d) These funds shall be administered by either the California  
24 Energy Commission or the local air district.

25 (e) *If a local air district's funds, including accrued interest, are*  
26 *not committed by an executed contract as reported to the State Air*  
27 *Resources Board on or before June 30, 2012, then those funds*  
28 *shall be transferred, on or before January 1, 2013, to another local*  
29 *air district that demonstrates an ability to expend the funds by*  
30 *January 1, 2014. In implementing this section, the State Air*  
31 *Resources Board in consultation with the local air districts shall,*  
32 *by September 30, 2012, establish a list of potential recipient local*  
33 *air districts, prioritizing local air districts with the most polluting*  
34 *school buses and the greatest need for school bus funding.*

35 (f) *Each allocation made pursuant to this section to a local air*  
36 *district shall provide enough funding for at least one project to be*  
37 *implemented pursuant to the Lower-Emission School Bus Program*  
38 *adopted by the State Air Resources Board. In the event a local air*  
39 *district has unspent funds as of January 1, 2014, the local air*  
40 *district shall work with the State Air Resources Board to transfer*



1 *the unspent funds to an alternative local air district with existing*  
2 *demand.*

3 *(g) Funds made available pursuant to this chapter to a local*  
4 *air district shall be expended by June 30, 2014.*

5 *(h) All funds not expended by a local air district by June 30,*  
6 *2014, shall be returned to the State Air Resources Board.*

7 *SEC. 83. Section 44392 of the Health and Safety Code is*  
8 *amended to read:*

9 44392. A facility operator subject to this chapter shall conduct  
10 an airborne toxic risk reduction audit and develop a plan which  
11 shall include at a minimum all of the following:

12 (a) The name and location of the facility.

13 (b) The SIC code for the facility.

14 (c) The chemical name and the generic classification of the  
15 chemical.

16 (d) An evaluation of the ATRRM's available to the operator.

17 (e) The specification of, and rationale for, the ATRRMs that  
18 will be implemented by the operator. The audit and plan shall  
19 document the rationale for rejecting ATRRMs that are identified  
20 as infeasible or too costly.

21 (f) A schedule for implementing the ATRRMs. The schedule  
22 shall meet the time requirements of subdivision (a) of Section  
23 44391 or the time period for implementing the plan set by the  
24 district pursuant to subdivision (b) or (c) of Section 44391,  
25 whichever is applicable.

26 (g) The audit and plan shall be reviewed and certified as meeting  
27 this chapter by an engineer who is registered as a professional  
28 engineer pursuant to Section 6762 of the Business and Professions  
29 Code, by an individual who is responsible for the processes and  
30 operations of the site, or by an environmental-assessor-registered  
31 pursuant to Section 25570.3. assessor.

32 *SEC. 84. Section 57009 of the Health and Safety Code is*  
33 *repealed.*

34 57009. ~~For purposes of this section, the following terms have~~  
35 ~~the following meanings:~~

36 (1) ~~"Agency" means the California Environmental Protection~~  
37 ~~Agency.~~

38 (2) ~~"Contaminated property" means a property located in the~~  
39 ~~study area that is, or may be, subject to remediation pursuant to~~  
40 ~~Chapter 6.10 (commencing with Section 25401) of Division 20.~~

1     ~~(3) “Pilot screening numbers” means the levels published in~~  
2     ~~Appendix 1 of Volume 2 of the technical report, except that, for~~  
3     ~~purposes of the study required by this section, the levels published~~  
4     ~~in Appendix 1 may be used only as informational screening~~  
5     ~~numbers, as provided in paragraph (3) of subdivision (a) of Section~~  
6     ~~57008, and in a manner consistent with the technical report.~~

7     ~~(4) “Study area” means the Los Angeles, Santa Ana, and San~~  
8     ~~Diego regions, as established pursuant to Section 13200 of the~~  
9     ~~Water Code.~~

10    ~~(5) “Technical report” means the technical report published by~~  
11    ~~the San Francisco Regional Water Quality Control Board entitled~~  
12    ~~“Application of Risk-Based Screening Levels and Decision-Making~~  
13    ~~to Sites with Impacted Soil and Groundwater (Interim Final August~~  
14    ~~2000)” and any updates to the technical report.~~

15    ~~(b) The agency shall conduct a study to evaluate the usefulness~~  
16    ~~of pilot screening numbers in encouraging remediation at~~  
17    ~~contaminated properties in the study area. The agency shall conduct~~  
18    ~~the study in accordance with the requirements of subdivision (c)~~  
19    ~~and shall develop information that bears on all of the following~~  
20    ~~issues:~~

21    ~~(1) The extent to which the pilot screening numbers are an~~  
22    ~~adequate basis for estimating the degree of effort that may be~~  
23    ~~necessary to remediate contaminated properties.~~

24    ~~(2) Whether the availability of the pilot screening numbers as~~  
25    ~~information provides an adequate basis for seeking funding from~~  
26    ~~public or private sector sources to evaluate the feasibility of~~  
27    ~~remediating a contaminated property and restoring it to productive~~  
28    ~~use.~~

29    ~~(3) The stages in the remediation process for which the pilot~~  
30    ~~screening numbers are of the most use.~~

31    ~~(4) The types of information derived from site investigations~~  
32    ~~that are most useful, when combined with the pilot screening~~  
33    ~~numbers, in making decisions concerning the feasibility of~~  
34    ~~remediation of contaminated properties.~~

35    ~~(5) Whether the availability of pilot screening numbers as~~  
36    ~~information enables a person interested in the remediation of a~~  
37    ~~contaminated property to determine, within an acceptable range,~~  
38    ~~the relationship between the estimated cost of remediation of the~~  
39    ~~property and the economic and social benefits that may derive~~

1 from the property if it is restored to any of its reasonably  
2 foreseeable uses.

3 (e) The agency shall carry out the study required by subdivision  
4 (b) in the study area over the period commencing on March 1,  
5 2002, until March 1, 2004. On or before June 30, 2004, the agency  
6 shall do all of the following:

7 (1) Prepare a brief document that explains what are screening  
8 numbers, what is the relationship of screening numbers to  
9 regulatory cleanup levels, and how screening numbers may be  
10 used to make judgments concerning the feasibility of restoring a  
11 contaminated property to productive use, and the degree of effort  
12 that may be required to remediate the property.

13 (2) Post the explanatory document prepared pursuant to  
14 paragraph (1), the technical report, and updates to the technical  
15 report, on the Internet Web sites maintained by the Department of  
16 Toxic Substances Control and by the California regional water  
17 quality control boards that have jurisdiction in the study area.

18 (3) Identify 25 contaminated properties in the study area that  
19 are remediated during the test period of March 1, 2002, until March  
20 1, 2004, to determine the effects of the availability of the pilot  
21 screening numbers as information on the course of remediation  
22 and revitalization of contaminated properties and on assisting  
23 persons involved with the remediation to make meaningful  
24 decisions concerning the feasibility and effectiveness of  
25 remediation activities and assess whether the pilot screening  
26 numbers were more or less stringent than the required cleanup  
27 levels.

28 (d) The agency may not include in the pilot study more than  
29 25 remediated contaminated properties in the study area.

30 (e) The study required by this section does not create any legal  
31 or regulatory authorization to use the pilot screening numbers. The  
32 pilot screening numbers are only available as information.

33 (f) The agency shall evaluate the information developed by the  
34 study required by this section, use the information as appropriate  
35 to carry out the requirements of Section 57008, and, to the extent  
36 the information is timely, provide the information and the  
37 evaluation to the contractor preparing the study required by Section  
38 57010.

1     ~~(g) The agency shall post the information developed by the~~  
2     ~~study required by this section and the information required under~~  
3     ~~paragraph (2) of subdivision (c) on its Internet Web site.~~

4     ~~(h) Nothing in this section affects the authority of the~~  
5     ~~Department of Toxic Substances Control, the State Water~~  
6     ~~Resources Control Board, or a regional water quality control board~~  
7     ~~to take action under any applicable law or regulation regarding a~~  
8     ~~release or threatened release of hazardous materials.~~

9     ~~SEC. 85. Section 58004.5 of the Health and Safety Code is~~  
10    ~~repealed.~~

11    ~~58004.5. (a) The department succeeds to, and is vested with,~~  
12    ~~all of the duties, powers, purposes, responsibilities, and jurisdiction~~  
13    ~~of the Office of Environmental Health Hazard Assessment with~~  
14    ~~regard to the Environmental Quality Assessment Act of 1986~~  
15    ~~(Chapter 6.98 (commencing with Section 25570)).~~

16    ~~(b) The Director of Toxic Substances Control may expend the~~  
17    ~~unexpended balance of any funds available for expenditure by the~~  
18    ~~Director of Environmental Health Hazard Assessment in~~  
19    ~~connection with the performance of the functions of the Director~~  
20    ~~of Environmental Health Hazard Assessment in carrying out the~~  
21    ~~Environmental Quality Assessment Act of 1986.~~

22    ~~(c) All officers and employees of the Office of Environmental~~  
23    ~~Health Hazard Assessment who are serving in the state civil~~  
24    ~~service, other than as temporary employees, and engaged in the~~  
25    ~~performance of a function in carrying out the Environmental~~  
26    ~~Quality Assessment Act of 1986 shall be transferred to the~~  
27    ~~department. The status, positions, and rights of those persons shall~~  
28    ~~not be affected by the transfer and shall be retained by them as~~  
29    ~~officers and employees of the Department of Toxic Substances~~  
30    ~~Control, pursuant to the State Civil Service Act (Part 2~~  
31    ~~(commencing with Section 18500) of Division 5 of Title 2 of the~~  
32    ~~Government Code), except as to positions exempted from civil~~  
33    ~~service.~~

34    ~~(d) The department shall have possession and control of all~~  
35    ~~records, papers, offices, equipment, supplies, money, funds,~~  
36    ~~appropriations, licenses, permits, agreements, contracts, claims,~~  
37    ~~judgments, and land or other property, real or personal, held for~~  
38    ~~the benefit or use of the Office of Environmental Health Hazard~~  
39    ~~Assessment for purposes of the functions transferred to the~~  
40    ~~department to subdivision (a).~~

1 ~~(e) Any regulation adopted before January 1, 2003, by the~~  
2 ~~Office of Environmental Health Hazard Assessment or its~~  
3 ~~predecessors, relating to carrying out the Environmental Quality~~  
4 ~~Assessment Act of 1986, as specified in subdivision (a), that are~~  
5 ~~in effect on January 1, 2003, shall remain in effect on and after~~  
6 ~~January 1, 2003, and are enforceable by the department until~~  
7 ~~readopted, amended, or repealed by the department.~~

8 *SEC. 86. Section 106615 of the Health and Safety Code is*  
9 *amended to read:*

10 106615. The words and phrases defined in this section shall  
11 have the following meaning, unless the context clearly indicates  
12 otherwise:

13 (a) “Department” means the State Department of *Public* Health  
14 Services.

15 (b) “Committee” means the Environmental Health Specialist  
16 Registration Committee.

17 (c) “Registered environmental health specialist” means an  
18 environmental health professional educated and trained within the  
19 field of environmental health who is registered in accordance with  
20 the provisions of this article. ~~A registered environmental health~~  
21 ~~specialist registered under this article also meets the requirements~~  
22 ~~for registration as an environmental assessor pursuant to Section~~  
23 ~~25570.~~

24 (d) “Environmental health specialist trainee” means a person  
25 who possesses (1) a minimum of a bachelor’s degree, including  
26 30 semester units of basic sciences, from a department approved  
27 educational institution or an educational institution of collegiate  
28 grade listed in the directory of accredited institutions of  
29 postsecondary education compiled by the American Council on  
30 Education, but who has not completed the specific coursework  
31 and experience requirements in the field of environmental health  
32 as required by Section 106660 for registration, and (2) who is  
33 engaged in an approved environmental health training plan.

34 (e) “Scope of practice in environmental health” means the  
35 practice of environmental health by registered environmental health  
36 specialists in the public and private sector within the meaning of  
37 this article and includes, but is not limited to, organization,  
38 management, education, enforcement, consultation, and emergency  
39 response for the purpose of prevention of environmental health  
40 hazards and the promotion and protection of the public health and

1 the environment in the following areas: food protection; housing;  
2 institutional environmental health; land use; community noise  
3 control; recreational swimming areas and waters; electromagnetic  
4 radiation control; solid, liquid, and hazardous materials  
5 management; underground storage tank control; onsite septic  
6 systems; vector control; drinking water quality; water sanitation;  
7 emergency preparedness; and milk and dairy sanitation pursuant  
8 to Section 33113 of the Food and Agricultural Code. Activities of  
9 registered environmental health specialists shall be regulated by  
10 the department upon the recommendation of the committee.

11 (f) “Certificate of registration” means a signed document issued  
12 by the department as evidence of registration and qualification to  
13 practice as a registered environmental health specialist under this  
14 article. The certificate shall bear the designation “registered  
15 environmental health specialist” and shall show the name of the  
16 person, date of issue, registration number, and seal.

17 (g) “Experience requirement” means on-the-job training and  
18 experience, as stated in this article, that all environmental health  
19 specialist trainees shall complete prior to obtaining eligibility for  
20 the environmental health specialist examination.

21 (h) “Approved environmental health training plan” means a  
22 training program in an organization that plans to utilize  
23 environmental health specialist trainees and has on file with the  
24 department a copy of its training plan that conforms with the  
25 requirements of Section 106665, and that has been approved by  
26 the committee.

27 (i) “Director” means the director.

28 *SEC. 87. Section 3258 of the Public Resources Code is*  
29 *amended to read:*

30 3258. (a) The division shall not make expenditures pursuant  
31 to this article that exceed the following sum in any one fiscal year:

32 (1) Two million dollars (\$2,000,000) commencing on July 1,  
33 2008, for the 2008–09 fiscal year, and continuing for ~~three~~ six  
34 fiscal years thereafter.

35 (2) One million dollars (\$1,000,000), commencing with the  
36 ~~2012–13~~ 2015–16 fiscal year.

37 (b) On October 1, 2011, the department shall report to the  
38 Legislature on the number of orphan wells remaining, the estimated  
39 costs of abandoning those orphan wells, and a timeline for future  
40 orphan well abandonment with a specific schedule of goals.

1     *SEC. 88. It is the intent of the Legislature that the Department*  
 2     *of Parks and Recreation take all of the following actions to ensure*  
 3     *that units of the state park system are operated as economically*  
 4     *and efficiently as possible:*

5     *(a) To the extent consistent with state law, the department should*  
 6     *undergo a reclassification of its personnel by adding nonpeace*  
 7     *officer status position classifications to allow for a concurrent*  
 8     *pathway for nonpeace officer status personnel, and reduce the*  
 9     *overall number of peace officers functioning in nonpeace officer*  
 10    *positions.*

11    *(b) The department should maximize revenue generation*  
 12    *activities that are consistent with the mission of the department*  
 13    *and each park district and unit within the control of the department.*  
 14    *All such revenue generation activities should be viewed as*  
 15    *complementary to the public investment in the department that*  
 16    *provides significant public recreational opportunities and that*  
 17    *protects significant historical, cultural, and natural resources.*  
 18    *The purpose of the revenue generation program is to allow the*  
 19    *department to creatively focus on new revenue sources that are*  
 20    *consistent with the respective missions and purposes of each of its*  
 21    *units.*

22    *(c) The department should provide each park district with a*  
 23    *direct financial incentive to generate revenues consistent with*  
 24    *sound fiscal practices and the respective missions and purposes*  
 25    *of the park units in each district. The revenues could be generated*  
 26    *through the collection of entrance and parking fees and other*  
 27    *projects and activities that may assist each district in building*  
 28    *additional program capacity or maintaining or expanding visitor*  
 29    *services and amenities that are consistent with the respective*  
 30    *missions and purposes of the department or its units.*

31    *(d) The department should have an incentive to increase the*  
 32    *funds it may have available for expenditure to improve the*  
 33    *department's own revenue generation capabilities, and supplement*  
 34    *the General Fund support of the department. Moneys received*  
 35    *from the revenue generation activities authorized under Section*  
 36    *5010.7 of the Public Resources Code should be divided between*  
 37    *the department and individual park districts.*

38    *SEC. 89. Section 5010.6 is added to the Public Resources Code,*  
 39    *to read:*

1     5010.6. (a) For purposes of this section, “subaccount” means  
2     the State Parks Revenue Incentive Subaccount created pursuant  
3     to this section.

4     (b) The State Parks Revenue Incentive Subaccount is hereby  
5     created within the State Parks and Recreation Fund and the  
6     Controller shall annually transfer fifteen million three hundred  
7     forty thousand dollars (\$15,340,000) from the State Parks and  
8     Recreation Fund to the subaccount.

9     (c) Notwithstanding Section 13340 of the Government Code,  
10    the funds in the subaccount are hereby continuously appropriated  
11    to the department to create incentives for projects that are  
12    consistent with the mission of the department and that generate  
13    revenue, except the department shall not expend from the  
14    subaccount more than eleven million dollars (\$11,000,000)  
15    annually pursuant to Section 5003.

16    (d) The Office of State Audits and Evaluations shall review the  
17    activities funded from the subaccount pursuant to subdivision (c)  
18    to ensure appropriate internal controls are in place. The  
19    department shall reimburse the Office of State Audits and  
20    Evaluations from the subaccount for any costs related to the  
21    review.

22    (e) The revenue generated from projects funded by the  
23    subaccount shall be deposited in the subaccount and are  
24    continuously appropriated for expenditure by the department in  
25    accordance with the following:

26    (1) At least 50 percent of the revenue generated shall be  
27    expended in the district of the department that earned that revenue,  
28    as an incentive for revenue generation.

29    (2) The remaining revenue may be expended by the department  
30    pursuant to subdivision (c), including, but not limited to, for  
31    expenditure pursuant to Section 5003.

32    (f) The funds in the subaccount shall be available for  
33    encumbrance and expenditure until June 30, 2014, and for  
34    liquidation until June 30, 2016.

35    (g) This section shall become inoperative on June 30, 2016,  
36    and, as of January 1, 2017, is repealed, unless a later enacted  
37    statute, that becomes operative on or before January 1, 2017,  
38    deletes or extends the dates on which it becomes inoperative and  
39    is repealed.



1     *SEC. 90. Section 5010.6.5 is added to the Public Resources*  
2     *Code, to read:*

3     *5010.6.5. On July 1, 2016, the Controller shall transfer any*  
4     *unexpended funds remaining in the State Parks Revenue Incentive*  
5     *Subaccount created pursuant to Section 5010.6 to the State Parks*  
6     *and Recreation Fund.*

7     *SEC. 91. Section 5010.7 is added to the Public Resources Code,*  
8     *to read:*

9     *5010.7. (a) The department shall develop a revenue generation*  
10    *program as an essential component of a long-term sustainable*  
11    *park funding strategy. On or before October 1, 2012, the*  
12    *department shall assign a two-year revenue generation target to*  
13    *each district under the control of the department. The revenue*  
14    *target may be amended annually for subsequent years, beginning*  
15    *in the 2015–16 fiscal year. The department shall develop guidelines*  
16    *for districts to report the use of funds generated by the revenue*  
17    *generation program, and shall post information and copies of the*  
18    *reports on its Internet Web site.*

19    *(b) All revenues generated by the revenue generation program*  
20    *developed pursuant to subdivision (a) shall be deposited into the*  
21    *California State Park Enterprise Fund, which is hereby created*  
22    *in the State Treasury as a working capital fund, and the revenues*  
23    *shall be available to the department upon appropriation by the*  
24    *Legislature, for expenditure for those purposes specified in this*  
25    *section.*

26    *(c) Moneys appropriated to the department pursuant to*  
27    *subdivision (b) and Section 5010.6 shall be expended as follows:*

28    *(1) (A) The department shall allocate 40 percent of the total*  
29    *amount of revenues generated by a park district to that district if*  
30    *the amount of revenues generated exceeds the targeted revenue*  
31    *amount prescribed in the revenue generation program. The*  
32    *revenues to be allocated to a park district that fails to achieve the*  
33    *revenue target shall remain in the fund.*

34    *(B) With the approval of the director, each district shall use the*  
35    *funds it receives from the department from the revenue generation*  
36    *program to improve the parks in that district through revenue*  
37    *generation programs and projects and other activities that will*  
38    *assist in the district's revenue generation activities, and the*  
39    *programs, projects, and other activities shall be consistent with*

1 *the mission and purpose of each unit and with the plan developed*  
2 *for the unit pursuant to subdivision (a) of Section 5002.2.*

3 *(2) The department shall use 40 percent of the funds generated*  
4 *from the revenue generation activities of the department for the*  
5 *following purposes:*

6 *(A) To fund the capital costs of construction and installation of*  
7 *new revenue and fee collection equipment and technologies and*  
8 *other physical upgrades to existing state park system lands and*  
9 *facilities.*

10 *(B) For costs of restoration and rehabilitation of the state park*  
11 *system and its natural, historical, and visitor-serving resources*  
12 *that enhance visitation and are designed to create opportunities*  
13 *to increase revenues.*

14 *(C) For costs to the department to implement the action plan*  
15 *required to be developed by the department pursuant to Section*  
16 *5019.92 of the Public Resources Code.*

17 *(d) (1) The department shall establish a revolving loan program*  
18 *and prepare guidelines establishing a process for districts to apply*  
19 *for funds that exceed the amount of funds provided to the districts*  
20 *pursuant to paragraph (1) of subdivision (c). It is the intent of the*  
21 *Legislature that the revolving loan program fund only those*  
22 *projects that will contribute to the success of the department's*  
23 *revenue generation program and the continual growth of the fund*  
24 *over time. Districts may apply for funds for capital projects,*  
25 *personnel, and operations that are consistent with this subdivision,*  
26 *including the costs of preparing an application. The department*  
27 *shall provide an annual accounting to the Department of Finance*  
28 *and the relevant legislative committees of the use of those funds.*

29 *(2) The guidelines prepared pursuant to paragraph (1) shall*  
30 *require that applications for funding include all of the following:*

31 *(A) A clear description of the proposed use of funds, including*  
32 *maps and other drawings, as applicable.*

33 *(B) A market analysis demonstrating demand for the project or*  
34 *service.*

35 *(C) The projected life-span of the project, which must be at least*  
36 *20 years for a proposed capital project.*

37 *(D) A projection of revenues, including the specific assumptions*  
38 *for annual income, fees, occupancy rates, pricing, and other*  
39 *relevant criteria upon which the projection is based.*

1     (E) A projection of costs, including, but not limited to, design,  
2     planning, construction, operation, staff, maintenance, marketing,  
3     and information technology.

4     (F) The timeframe for implementation, including all necessary  
5     reviews and permitting.

6     (G) The projected net return on investment of the life of the  
7     project.

8     (H) Provisions providing for mandatory reporting on the project  
9     by districts to the department.

10    (e) The department shall rank all of the proposals and award  
11    loans for projects or other activities to districts based on the  
12    following criteria, as well as other considerations that the  
13    department considers relevant:

14      (1) Return on investment.

15      (2) Length of time for implementation.

16      (3) Length of time for the project debt to be retired.

17      (4) Percentage of total project costs paid by the district or by  
18    a source of matching funds.

19      (5) Annual operating costs.

20    (f) The funds generated by the revenue generation program  
21    shall not be used by the department to expand the park system,  
22    unless there is significant revenue generation potential from such  
23    an expansion.

24    (g) Moneys received by the department from private  
25    contributions and other public funding sources may also be  
26    deposited into the California State Park Enterprise Fund for use  
27    for the purposes of paragraph (3) of subdivision (c) and subdivision  
28    (d).

29    (h) The department shall provide all relevant information on  
30    its Internet Web site concerning how the working capital funds  
31    are spent, including the guidelines and the department's ranking  
32    criteria for each funded loan agreement.

33    (i) A project agreement shall be negotiated between the  
34    department and a park unit and the total amount of requested  
35    project costs shall be allocated to the district as soon as is feasible  
36    when the agreement is finalized.

37    (j) The department may recoup its costs for implementing and  
38    administering the working capital from the fund.

39    SEC. 92. Section 5096.255 of the Public Resources Code is  
40    amended to read:

1     5096.255. Bonds in the total amount of three hundred-seventy  
2     ~~sixty-eight~~ million *nine hundred thousand* dollars ~~(\$370,000,000)~~  
3     ~~(\$368,900,000)~~, or so much thereof as is necessary, may be issued  
4     and sold to provide a fund to be used for carrying out the purposes  
5     expressed in this chapter and to be used to reimburse the General  
6     Obligation Bond Expense Revolving Fund pursuant to Section  
7     16724.5 of the Government Code. The bonds shall, when sold, be  
8     and constitute a valid and binding obligation of the State of  
9     California, and the full faith and credit of the State of California  
10    is hereby pledged for the punctual payment of both principal and  
11    interest on the bonds as the principal and interest become due and  
12    payable.

13    *SEC. 93. Section 5930 of the Public Resources Code is*  
14    *amended to read:*

15    5930. (a) ~~(1)~~ Bonds in the total amount of seven hundred  
16    ~~seventy-six~~ *sixty-eight* million *six hundred seventy thousand* dollars  
17    ~~(\$776,000,000)~~ *(\$768,670,000)*, or so much thereof as is necessary,  
18    may be issued and sold to be used for carrying out the purposes  
19    expressed in this division and in Chapter 7.5 (commencing with  
20    Section 2700) of Division 3 of the Fish and Game Code and to be  
21    used to reimburse the General Obligation Bond Expense Revolving  
22    Fund pursuant to Section 16724.5 of the Government Code. A  
23    sum, not to exceed seven hundred twenty-six million dollars  
24    ~~(\$726,000,000)~~ of the bond proceeds, shall be deposited in the  
25    California Wildlife, Coastal, and Park Land Conservation Fund  
26    of 1988 for the purposes of this division, and a sum, not to exceed  
27    fifty million dollars ~~(\$50,000,000)~~ of bond proceeds, shall be  
28    deposited in the Wildlife and Natural Areas Conservation Fund  
29    for the purposes of the Wildlife and Natural Areas Conservation  
30    Program (Chapter 7.5 (commencing with Section 2700) of Division  
31    3 of the Fish and Game Code). The bonds shall, when sold, be and  
32    constitute a valid and binding obligation of the State of California,  
33    and the full faith and credit of the State of California is hereby  
34    pledged for the punctual payment of both principal and interest as  
35    they become due and payable.

36    *SEC. 94. Section 14574 of the Public Resources Code, as*  
37    *amended by Section 262 of Chapter 296 of the Statutes of 2011,*  
38    *is amended to read:*

39    14574. (a) (1) A distributor of beverage containers shall pay  
40    to the department the redemption payment for every beverage

1 container, other than a refillable beverage container, sold or  
2 transferred to a dealer, less 1.5 percent for the distributor's  
3 administrative costs.

4 (2) The payment made by a distributor shall be made not later  
5 than the last day of the ~~third~~ month following the sale. The  
6 distributor shall make the payment in the form and manner that  
7 the department prescribes.

8 (b) (1) Notwithstanding subdivision (a), if a distributor displays  
9 a pattern of operation in compliance with this division and the  
10 regulations adopted pursuant to this division, to the satisfaction of  
11 the department, the distributor may make a single annual payment  
12 of redemption payments, if the distributor's projected redemption  
13 payment for a calendar year totals less than seventy-five thousand  
14 dollars (\$75,000).

15 (2) An annual redemption payment made pursuant to this  
16 subdivision is due and payable on or before February 1 for every  
17 beverage container sold or transferred by the distributor to a dealer  
18 in the previous calendar year.

19 (3) A distributor shall notify the department of its intent to make  
20 an annual redemption payment pursuant to this subdivision on or  
21 before January 31 of the calendar year for which the payment will  
22 be due.

23 (c) This section shall become effective on July 1, 2012.

24 *SEC. 95. Section 21155.1 of the Public Resources Code is*  
25 *amended to read:*

26 21155.1. If the legislative body finds, after conducting a public  
27 hearing, that a transit priority project meets all of the requirements  
28 of subdivisions (a) and (b) and one of the requirements of  
29 subdivision (c), the transit priority project is declared to be a  
30 sustainable communities project and shall be exempt from this  
31 division.

32 (a) The transit priority project complies with all of the following  
33 environmental criteria:

34 (1) The transit priority project and other projects approved prior  
35 to the approval of the transit priority project but not yet built can  
36 be adequately served by existing utilities, and the transit priority  
37 project applicant has paid, or has committed to pay, all applicable  
38 in-lieu or development fees.

39 (2) (A) The site of the transit priority project does not contain  
40 wetlands or riparian areas and does not have significant value as

1 a wildlife habitat, and the transit priority project does not harm  
2 any species protected by the federal Endangered Species Act of  
3 1973 (16 U.S.C. Sec. 1531 et seq.), the Native Plant Protection  
4 Act (Chapter 10 (commencing with Section 1900) of Division 2  
5 of the Fish and Game Code), or the California Endangered Species  
6 Act (Chapter 1.5 (commencing with Section 2050) of Division 3  
7 of the Fish and Game Code), and the project does not cause the  
8 destruction or removal of any species protected by a local ordinance  
9 in effect at the time the application for the project was deemed  
10 complete.

11 (B) For the purposes of this paragraph, “wetlands” has the same  
12 meaning as in the United States Fish and Wildlife Service Manual,  
13 Part 660 FW 2 (June 21, 1993).

14 (C) For the purposes of this paragraph:

15 (i) “Riparian areas” means those areas transitional between  
16 terrestrial and aquatic ecosystems and that are distinguished by  
17 gradients in biophysical conditions, ecological processes, and biota.  
18 A riparian area is an area through which surface and subsurface  
19 hydrology connect waterbodies with their adjacent uplands. A  
20 riparian area includes those portions of terrestrial ecosystems that  
21 significantly influence exchanges of energy and matter with aquatic  
22 ecosystems. A riparian area is adjacent to perennial, intermittent,  
23 and ephemeral streams, lakes, and estuarine-marine shorelines.

24 (ii) “Wildlife habitat” means the ecological communities upon  
25 which wild animals, birds, plants, fish, amphibians, and  
26 invertebrates depend for their conservation and protection.

27 (iii) Habitat of “significant value” includes wildlife habitat of  
28 national, statewide, regional, or local importance; habitat for  
29 species protected by the federal Endangered Species Act of 1973  
30 (16 U.S.C. Sec. 1531, et seq.), the California Endangered Species  
31 Act (Chapter 1.5 (commencing with Section 2050) of Division 3  
32 of the Fish and Game Code), or the Native Plant Protection Act  
33 (Chapter 10 (commencing with Section 1900) of Division 2 of the  
34 Fish and Game Code); habitat identified as candidate, fully  
35 protected, sensitive, or species of special status by local, state, or  
36 federal agencies; or habitat essential to the movement of resident  
37 or migratory wildlife.

38 (3) The site of the transit priority project is not included on any  
39 list of facilities and sites compiled pursuant to Section 65962.5 of  
40 the Government Code.

1 (4) The site of the transit priority project is subject to a  
2 preliminary endangerment assessment prepared by a registered ~~an~~  
3 environmental assessor to determine the existence of any release  
4 of a hazardous substance on the site and to determine the potential  
5 for exposure of future occupants to significant health hazards from  
6 any nearby property or activity.

7 (A) If a release of a hazardous substance is found to exist on  
8 the site, the release shall be removed or any significant effects of  
9 the release shall be mitigated to a level of insignificance in  
10 compliance with state and federal requirements.

11 (B) If a potential for exposure to significant hazards from  
12 surrounding properties or activities is found to exist, the effects of  
13 the potential exposure shall be mitigated to a level of insignificance  
14 in compliance with state and federal requirements.

15 (5) The transit priority project does not have a significant effect  
16 on historical resources pursuant to Section 21084.1.

17 (6) The transit priority project site is not subject to any of the  
18 following:

19 (A) A wildland fire hazard, as determined by the Department  
20 of Forestry and Fire Protection, unless the applicable general plan  
21 or zoning ordinance contains provisions to mitigate the risk of a  
22 wildland fire hazard.

23 (B) An unusually high risk of fire or explosion from materials  
24 stored or used on nearby properties.

25 (C) Risk of a public health exposure at a level that would exceed  
26 the standards established by any state or federal agency.

27 (D) Seismic risk as a result of being within a delineated  
28 earthquake fault zone, as determined pursuant to Section 2622, or  
29 a seismic hazard zone, as determined pursuant to Section 2696,  
30 unless the applicable general plan or zoning ordinance contains  
31 provisions to mitigate the risk of an earthquake fault or seismic  
32 hazard zone.

33 (E) Landslide hazard, flood plain, flood way, or restriction zone,  
34 unless the applicable general plan or zoning ordinance contains  
35 provisions to mitigate the risk of a landslide or flood.

36 (7) The transit priority project site is not located on developed  
37 open space.

38 (A) For the purposes of this paragraph, “developed open space”  
39 means land that meets all of the following criteria:

1 (i) Is publicly owned, or financed in whole or in part by public  
2 funds.

3 (ii) Is generally open to, and available for use by, the public.

4 (iii) Is predominantly lacking in structural development other  
5 than structures associated with open spaces, including, but not  
6 limited to, playgrounds, swimming pools, ballfields, enclosed child  
7 play areas, and picnic facilities.

8 (B) For the purposes of this paragraph, “developed open space”  
9 includes land that has been designated for acquisition by a public  
10 agency for developed open space, but does not include lands  
11 acquired with public funds dedicated to the acquisition of land for  
12 housing purposes.

13 (8) The buildings in the transit priority project are 15 percent  
14 more energy efficient than required by Chapter 6 of Title 24 of the  
15 California Code of Regulations and the buildings and landscaping  
16 are designed to achieve 25 percent less water usage than the  
17 average household use in the region.

18 (b) The transit priority project meets all of the following land  
19 use criteria:

20 (1) The site of the transit priority project is not more than eight  
21 acres in total area.

22 (2) The transit priority project does not contain more than 200  
23 residential units.

24 (3) The transit priority project does not result in any net loss in  
25 the number of affordable housing units within the project area.

26 (4) The transit priority project does not include any single level  
27 building that exceeds 75,000 square feet.

28 (5) Any applicable mitigation measures or performance  
29 standards or criteria set forth in the prior environmental impact  
30 reports, and adopted in findings, have been or will be incorporated  
31 into the transit priority project.

32 (6) The transit priority project is determined not to conflict with  
33 nearby operating industrial uses.

34 (7) The transit priority project is located within one-half mile  
35 of a rail transit station or a ferry terminal included in a regional  
36 transportation plan or within one-quarter mile of a high-quality  
37 transit corridor included in a regional transportation plan.

38 (c) The transit priority project meets at least one of the following  
39 three criteria:

40 (1) The transit priority project meets both of the following:



1 (A) At least 20 percent of the housing will be sold to families  
2 of moderate income, or not less than 10 percent of the housing  
3 will be rented to families of low income, or not less than 5 percent  
4 of the housing is rented to families of very low income.

5 (B) The transit priority project developer provides sufficient  
6 legal commitments to the appropriate local agency to ensure the  
7 continued availability and use of the housing units for very low,  
8 low-, and moderate-income households at monthly housing costs  
9 with an affordable housing cost or affordable rent, as defined in  
10 Section 50052.5 or 50053 of the Health and Safety Code,  
11 respectively, for the period required by the applicable financing.  
12 Rental units shall be affordable for at least 55 years. Ownership  
13 units shall be subject to resale restrictions or equity sharing  
14 requirements for at least 30 years.

15 (2) The transit priority project developer has paid or will pay  
16 in-lieu fees pursuant to a local ordinance in an amount sufficient  
17 to result in the development of an equivalent number of units that  
18 would otherwise be required pursuant to paragraph (1).

19 (3) The transit priority project provides public open space equal  
20 to or greater than five acres per 1,000 residents of the project.

21 *SEC. 96. Section 21159.21 of the Public Resources Code is*  
22 *amended to read:*

23 21159.21. A housing project qualifies for an exemption from  
24 this division pursuant to Section 21159.22, 21159.23, or 21159.24  
25 if it meets the criteria in the applicable section and all of the  
26 following criteria:

27 (a) The project is consistent with any applicable general plan,  
28 specific plan, and local coastal program, including any mitigation  
29 measures required by a plan or program, as that plan or program  
30 existed on the date that the application was deemed complete and  
31 with any applicable zoning ordinance, as that zoning ordinance  
32 existed on the date that the application was deemed complete,  
33 except that a project shall not be deemed to be inconsistent with  
34 the zoning designation for the site if that zoning designation is  
35 inconsistent with the general plan only because the project site has  
36 not been rezoned to conform with a more recently adopted general  
37 plan.

38 (b) Community-level environmental review has been adopted  
39 or certified.

1 (c) The project and other projects approved prior to the approval  
2 of the project can be adequately served by existing utilities, and  
3 the project applicant has paid, or has committed to pay, all  
4 applicable in-lieu or development fees.

5 (d) The site of the project does not contain wetlands, does not  
6 have any value as a wildlife habitat, and the project does not harm  
7 any species protected by the federal Endangered Species Act of  
8 1973 (16 U.S.C. Sec. 1531 et seq.) or by the Native Plant Protection  
9 Act (Chapter 10 (commencing with Section 1900) of Division 2  
10 of the Fish and Game Code), the California Endangered Species  
11 Act (Chapter 1.5 (commencing with Section 2050) of Division 3  
12 of the Fish and Game Code), and the project does not cause the  
13 destruction or removal of any species protected by a local ordinance  
14 in effect at the time the application for the project was deemed  
15 complete. For the purposes of this subdivision, “wetlands” has the  
16 same meaning as in Section 328.3 of Title 33 of the Code of  
17 Federal Regulations and “wildlife habitat” means the ecological  
18 communities upon which wild animals, birds, plants, fish,  
19 amphibians, and invertebrates depend for their conservation and  
20 protection.

21 (e) The site of the project is not included on any list of facilities  
22 and sites compiled pursuant to Section 65962.5 of the Government  
23 Code.

24 (f) The site of the project is subject to a preliminary  
25 endangerment assessment prepared by ~~a registered~~ *an*  
26 environmental assessor to determine the existence of any release  
27 of a hazardous substance on the site and to determine the potential  
28 for exposure of future occupants to significant health hazards from  
29 any nearby property or activity.

30 (1) If a release of a hazardous substance is found to exist on the  
31 site, the release shall be removed, or any significant effects of the  
32 release shall be mitigated to a level of insignificance in compliance  
33 with state and federal requirements.

34 (2) If a potential for exposure to significant hazards from  
35 surrounding properties or activities is found to exist, the effects of  
36 the potential exposure shall be mitigated to a level of insignificance  
37 in compliance with state and federal requirements.

38 (g) The project does not have a significant effect on historical  
39 resources pursuant to Section 21084.1.

40 (h) The project site is not subject to any of the following:

(1) A wildland fire hazard, as determined by the Department of Forestry and Fire Protection, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a wildland fire hazard.

(2) An unusually high risk of fire or explosion from materials stored or used on nearby properties.

(3) Risk of a public health exposure at a level that would exceed the standards established by any state or federal agency.

(4) Within a delineated earthquake fault zone, as determined pursuant to Section 2622, or a seismic hazard zone, as determined pursuant to Section 2696, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of an earthquake fault or seismic hazard zone.

(5) Landslide hazard, flood plain, flood way, or restriction zone, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a landslide or flood.

(i) (1) The project site is not located on developed open space.

(2) For the purposes of this subdivision, “developed open space” means land that meets all of the following criteria:

(A) Is publicly owned, or financed in whole or in part by public funds.

(B) Is generally open to, and available for use by, the public.

(C) Is predominantly lacking in structural development other than structures associated with open spaces, including, but not limited to, playgrounds, swimming pools, ballfields, enclosed child play areas, and picnic facilities.

(3) For the purposes of this subdivision, “developed open space” includes land that has been designated for acquisition by a public agency for developed open space, but does not include lands acquired by public funds dedicated to the acquisition of land for housing purposes.

(j) The project site is not located within the boundaries of a state conservancy.

*SEC. 97. Chapter 8.1 (commencing with Section 25710) is added to Division 15 of the Public Resources Code, to read:*

*CHAPTER 8.1. ELECTRIC PROGRAM INVESTMENT CHARGE FUND*

*25710. For the purposes of this chapter, the following terms have the following meanings:*

1 (a) “Electric Program Investment Charge” means the surcharge  
2 instituted by the Public Utilities Commission pursuant to Decision  
3 11-12-035 or any subsequent decisions to collect funds for  
4 renewable energy programs and research, development, and  
5 demonstration programs.

6 (b) “Fund” means the portion of the Electric Program  
7 Investment Charge Fund created by Section 25711.

8 25711. For the purposes of implementing this chapter, the  
9 Electric Program Investment Charge Fund is hereby created in  
10 the State Treasury.

11 (a) The commission shall administer the fund.

12 (b) At least quarterly, moneys received by the Public Utilities  
13 Commission pursuant to the Electric Program Investment Charge  
14 for those programs the Public Utilities Commission has determined  
15 should be administered by the Energy Commission shall be  
16 forwarded by the Public Utilities Commission to the commission  
17 for deposit in the fund.

18 (c) The Controller shall, as directed by the commission, disburse  
19 moneys in the fund for purposes of this chapter.

20 (d) The commission may use moneys in the fund for the  
21 administration of this chapter, as authorized by the Public Utilities  
22 Commission and appropriated by the Legislature in the annual  
23 Budget Act.

24 25712. This chapter does not authorize the levy of a charge or  
25 any increase in the amount collected pursuant to any existing  
26 charge, nor does it add to, or detract from, any existing authority  
27 of the Public Utilities Commission to levy or increase charges.

28 SEC. 98. Section 25740.5 of the Public Resources Code is  
29 amended to read:

30 ~~25740.5. (a) The commission shall optimize public investment~~  
31 ~~and ensure that the most cost-effective and efficient investments~~  
32 ~~in renewable energy resources are vigorously pursued.~~

33 ~~(b) The commission’s long-term goal shall be a fully competitive~~  
34 ~~and self-sustaining supply of electricity generated from renewable~~  
35 ~~sources.~~

36 ~~(c) The program objective shall be to increase, in the near term,~~  
37 ~~the quantity of California’s electricity generated by renewable~~  
38 ~~electrical generation facilities located in this state, while protecting~~  
39 ~~system reliability, fostering resource diversity, and obtaining the~~  
40 ~~greatest environmental benefits for California residents.~~

1     ~~(d) An additional objective of the program shall be to identify~~  
2     ~~and support emerging renewable technologies in distributed~~  
3     ~~generation applications that have the greatest near-term commercial~~  
4     ~~promise and that merit targeted assistance.~~

5     ~~(e) The Legislature recommends allocations among all of the~~  
6     ~~following:~~

7         ~~(1) Rebates, buydowns, or equivalent incentives for emerging~~  
8         ~~renewable technologies.~~

9         ~~(2) Customer education.~~

10        ~~(3) Production incentives for reducing fuel costs, that are~~  
11        ~~confirmed to the satisfaction of the commission, at solid fuel~~  
12        ~~biomass energy facilities in order to provide demonstrable~~  
13        ~~environmental and public benefits, including improved air quality.~~

14        ~~(4) Solar thermal generating resources that enhance the~~  
15        ~~environmental value or reliability of the electrical system and that~~  
16        ~~require financial assistance to remain economically viable, as~~  
17        ~~determined by the commission. The commission may require~~  
18        ~~financial disclosure from applicants for purposes of this paragraph.~~

19        ~~(5) Specified fuel cell technologies, if the commission makes~~  
20        ~~all of the following findings:~~

21           ~~(A) The specified technologies have similar or better air~~  
22           ~~pollutant characteristics than renewable technologies in the report~~  
23           ~~made pursuant to Section 25748.~~

24           ~~(B) The specified technologies require financial assistance to~~  
25           ~~become commercially viable by reference to wholesale generation~~  
26           ~~prices.~~

27           ~~(C) The specified technologies could contribute significantly~~  
28           ~~to the infrastructure development or other innovation required to~~  
29           ~~meet the long-term objective of a self-sustaining, competitive~~  
30           ~~supply of electricity generated from renewable sources.~~

31        ~~(6) Existing wind-generating resources, if the commission finds~~  
32        ~~that the existing wind-generating resources are a cost-effective~~  
33        ~~source of reliable energy and environmental benefits compared~~  
34        ~~with other renewable electrical generation facilities located in this~~  
35        ~~state, and that the existing wind-generating resources require~~  
36        ~~financial assistance to remain economically viable. The commission~~  
37        ~~may require financial disclosure from applicants for the purposes~~  
38        ~~of this paragraph.~~

39        ~~(f) Notwithstanding~~

1     25740.5. *Notwithstanding* any other law, moneys collected for  
2 renewable energy pursuant to Article 15 (commencing with Section  
3 399) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities  
4 Code shall be transferred to the Renewable Resource Trust Fund.  
5 Moneys collected between January 1, 2007, and January 1, 2012,  
6 shall be used for the purposes specified in this chapter.

7     *SEC. 99. Section 25742 of the Public Resources Code is*  
8 *repealed.*

9     ~~25742. (a) Twenty percent of the funds collected pursuant to~~  
10 ~~the renewable energy public goods charge shall be used for~~  
11 ~~programs that are designed to achieve fully competitive and~~  
12 ~~self-sustaining existing renewable electrical generation facilities~~  
13 ~~located in this state, and to secure for the state the environmental,~~  
14 ~~economic, and reliability benefits that continued operation of those~~  
15 ~~facilities will provide during the 2007-2011 investment cycle.~~  
16 ~~Eligibility for production incentives under this section shall be~~  
17 ~~limited to those technologies found eligible for funds by the~~  
18 ~~commission pursuant to paragraphs (3), (4), and (6) of subdivision~~  
19 ~~(c) of Section 25740.5.~~

20     ~~(b) Any funds used to support renewable electrical generation~~  
21 ~~facilities located in this state pursuant to this section shall be~~  
22 ~~expended in accordance with the provisions of this chapter.~~

23     ~~(c) Facilities that are eligible to receive funding pursuant to this~~  
24 ~~section shall be registered in accordance with criteria developed~~  
25 ~~by the commission and those facilities shall not receive payments~~  
26 ~~for any electricity produced that has any of the following~~  
27 ~~characteristics:~~

28     ~~(1) Is sold at monthly average rates equal to, or greater than,~~  
29 ~~the applicable target price, as determined by the commission.~~

30     ~~(2) Is used onsite.~~

31     ~~(d) (1) Existing facilities located in this state generating~~  
32 ~~electricity from biomass energy shall be eligible for funding and~~  
33 ~~otherwise considered a renewable electrical generation facility~~  
34 ~~only if they report to the commission the types and quantities of~~  
35 ~~biomass fuels used.~~

36     ~~(2) The commission shall report the types and quantities of~~  
37 ~~biomass fuels used by each facility to the Legislature in the reports~~  
38 ~~prepared pursuant to Section 25748.~~

39     ~~(e) Each existing facility seeking an award pursuant to this~~  
40 ~~section shall be evaluated by the commission to determine the~~

1 amount of the funds being sought, the cumulative amount of funds  
2 the facility has received previously from the commission and other  
3 state sources, the value of any past and current federal or state tax  
4 credits, the facility's contract price for energy and capacity, the  
5 prices received by similar facilities, the market value of the facility,  
6 and the likelihood that the award will make the facility competitive  
7 and self-sustaining within the 2007-2011 investment cycle. The  
8 commission shall use this evaluation to determine the value of an  
9 award to the public relative to other renewable energy investment  
10 alternatives. The commission shall compile its findings and report  
11 them to the Legislature in the reports prepared pursuant to Section  
12 25748.

13 *SEC. 100. Section 25743 of the Public Resources Code is*  
14 *repealed.*

15 ~~25743. (a) The commission shall terminate all production~~  
16 ~~incentives awarded from the New Renewable Resources Account~~  
17 ~~prior to January 1, 2002, unless the project began generating~~  
18 ~~electricity by January 1, 2007.~~

19 ~~(b) (1) The commission shall, by March 1, 2008, transfer to~~  
20 ~~electrical corporations serving customers subject to the renewable~~  
21 ~~energy public goods charge the remaining unencumbered funds~~  
22 ~~in the New Renewable Resources Account.~~

23 ~~(2) The Public Utilities Commission shall ensure that each~~  
24 ~~electrical corporation allocates funds received from the commission~~  
25 ~~pursuant to paragraph (1) in a manner that maximizes the economic~~  
26 ~~benefit to all customer classes that funded the New Renewable~~  
27 ~~Resources Account.~~

28 *SEC. 101. Section 25744 of the Public Resources Code is*  
29 *repealed.*

30 ~~25744. (a) Seventy-nine percent of the money collected~~  
31 ~~pursuant to the renewable energy public goods charge shall be~~  
32 ~~used for a multiyear, consumer-based program to foster the~~  
33 ~~development of emerging renewable technologies in distributed~~  
34 ~~generation applications.~~

35 ~~(b) Any funds used for emerging technologies pursuant to this~~  
36 ~~section shall be expended in accordance with this chapter, subject~~  
37 ~~to all of the following requirements:~~

38 ~~(1) Funding for emerging technologies shall be provided through~~  
39 ~~a competitive, market-based process that is in place for a period~~  
40 ~~of not less than five years, and is structured to allow eligible~~

1 emerging technology manufacturers and suppliers to anticipate  
2 and plan for increased sale and installation volumes over the life  
3 of the program.

4 (2) The program shall provide monetary rebates, buydowns, or  
5 equivalent incentives, subject to paragraph (3), to purchasers,  
6 lessees, lessors, or sellers of eligible electricity generating systems.  
7 Incentives shall benefit the end-use consumer of renewable  
8 generation by directly and exclusively reducing the purchase or  
9 lease cost of the eligible system, or the cost of electricity produced  
10 by the eligible system. Incentives shall be issued on the basis of  
11 the rated electrical generating capacity of the system measured in  
12 watts, or the amount of electricity production of the system,  
13 measured in kilowatthours. Incentives shall be limited to a  
14 maximum percentage of the system price, as determined by the  
15 commission. The commission may establish different incentive  
16 levels for systems based on technology type and system size, and  
17 may provide different incentive levels for systems used in  
18 conjunction with energy efficiency measures.

19 (3) Eligible distributed emerging technologies are fuel cell  
20 technologies that utilize renewable fuels, including fuel cell  
21 technologies with an emission profile equivalent or better than the  
22 State Air Resources Board 2007 standard, and that serve as backup  
23 generation for emergency, safety, or telecommunications systems.  
24 Eligible renewable fuels may include wind turbines of not more  
25 than 50 kilowatts rated electrical generating capacity per customer  
26 site and other distributed renewable emerging technologies that  
27 meet the emerging technology eligibility criteria established by  
28 the commission and are not eligible for rebates, buydowns, or  
29 similar incentives from any other commission or Public Utilities  
30 Commission program. Eligible electricity generating systems are  
31 intended primarily to offset part or all of the consumer's own  
32 electricity demand, including systems that are used as backup  
33 power for emergency, safety, or telecommunications, and shall  
34 not be owned by local publicly owned electric utilities, nor be  
35 located at a customer site that is not receiving distribution service  
36 from an electrical corporation that is subject to the renewable  
37 energy public goods charge and contributing funds to support  
38 programs under this chapter. All eligible electricity generating  
39 system components shall be new and unused, shall not have been  
40 previously placed in service in any other location or for any other



1 application, and shall have a warranty of not less than five years  
2 to protect against defects and undue degradation of electrical  
3 generation output. Systems and their fuel resources shall be located  
4 on the same premises of the end-use consumer where the  
5 consumer's own electricity demand is located, and all eligible  
6 electricity generating systems shall be connected to the utility grid,  
7 unless the system purpose is for backup generation used in  
8 emergency, safety, or telecommunications in California. The  
9 commission may require eligible electricity generating systems to  
10 have meters in place to monitor and measure a system's  
11 performance and generation. Only systems that will be operated  
12 in compliance with applicable law and the rules of the Public  
13 Utilities Commission shall be eligible for funding.

14 (4) The commission shall limit the amount of funds available  
15 for a system or project of multiple systems and reduce the level  
16 of funding for a system or project of multiple systems that has  
17 received, or may be eligible to receive, any government or utility  
18 funds, incentives, or credit.

19 (5) In awarding funding, the commission may provide preference  
20 to systems that provide tangible demonstrable benefits to  
21 communities with a plurality of minority or low-income  
22 populations.

23 (6) In awarding funding, the commission shall develop and  
24 implement eligibility criteria and a system that provides preference  
25 to systems based upon system performance, taking into account  
26 factors, including shading, insulation levels, and installation  
27 orientation.

28 (7) At least once annually, the commission shall publish and  
29 make available to the public the balance of funds available for  
30 emerging renewable energy resources for rebates, buydowns, and  
31 other incentives for the purchase of these resources.

32 (e) Notwithstanding Section 27540.5, the commission may  
33 expend, until December 31, 2008, up to sixty million dollars  
34 (\$60,000,000) of the funding allocated to the Renewable Resources  
35 Trust Fund for the program established in this section, subject to  
36 the repayment requirements of subdivision (f) of Section 25751.

37 (d) Any funds for photovoltaic or solar thermal electric  
38 technologies shall be awarded in compliance with Chapter 8.8  
39 (commencing with Section 25780), and not with this section.

1     *SEC. 102. Section 25744.5 of the Public Resources Code is*  
2     *amended to read:*

3     25744.5. The commission shall allocate and use funding  
4     available for emerging renewable technologies pursuant to ~~Section~~  
5     ~~25744~~ and Section 25751 to fund photovoltaic and solar thermal  
6     electric technologies in accordance with eligibility criteria and  
7     conditions established pursuant to Chapter 8.8 (commencing with  
8     Section 25780).

9     *SEC. 103. Section 25746 of the Public Resources Code is*  
10    *amended to read:*

11    25746. ~~(a) One percent of the money collected pursuant to the~~  
12    ~~renewable energy public goods charge shall be used in accordance~~  
13    ~~with this chapter to promote renewable energy and disseminate~~  
14    ~~information on renewable energy technologies, including emerging~~  
15    ~~renewable technologies, and to help develop a consumer market~~  
16    ~~for renewable energy and for small-scale emerging renewable~~  
17    ~~energy technologies.~~

18    ~~(b) If~~

19    25746. *If* the commission provides funding for a regional  
20    accounting system to verify compliance with the ~~renewable~~  
21    ~~renewables~~ portfolio standard by retail sellers, pursuant to  
22    subdivision (b) of Section 399.25 of the Public Utilities Code, the  
23    commission shall recover all costs from user fees.

24    *SEC. 104. Section 25748 of the Public Resources Code is*  
25    *repealed.*

26    25748. ~~(a) The commission shall report to the Legislature on~~  
27    ~~or before November 1, 2007, and annually thereafter, regarding~~  
28    ~~the results of the mechanisms funded pursuant to this chapter. The~~  
29    ~~report shall contain all of the following:~~

30    ~~(1) A description of the allocation of funds among existing,~~  
31    ~~new, and emerging technologies, the allocation of funds among~~  
32    ~~programs, including consumer-side incentives, and the need for~~  
33    ~~the reallocation of money among those technologies.~~

34    ~~(2) The status of account transfers and repayments.~~

35    ~~(3) A description of the cumulative commitment of claims by~~  
36    ~~account, the relative demand for funds by account, and a forecast~~  
37    ~~of future awards.~~

38    ~~(4) A list identifying the types and quantities of biomass fuels~~  
39    ~~used by facilities receiving funds pursuant to Section 25742 and~~  
40    ~~their impacts on improving air quality.~~

1     ~~(5) A discussion of the progress being made toward achieving~~  
2     ~~the targets established under Section 25740 by each funding~~  
3     ~~category authorized pursuant to this chapter.~~

4     ~~(6) A description of the allocation of funds from interest on the~~  
5     ~~accounts described in this chapter, and money in the accounts~~  
6     ~~described in subdivision (b) of Section 25751.~~

7     ~~(7) An itemized list, including project descriptions, award~~  
8     ~~amounts, and outcomes for projects awarded funding in the prior~~  
9     ~~year.~~

10    ~~(8) Other matters the commission determines may be of~~  
11    ~~importance to the Legislature.~~

12    ~~(b) Money may be reallocated without further legislative action~~  
13    ~~among existing, new, and emerging technologies and~~  
14    ~~consumer-side programs in a manner consistent with the report~~  
15    ~~and with the latest report provided to the Legislature pursuant to~~  
16    ~~this section, except that reallocations shall not increase the~~  
17    ~~allocation established in Section 25742.~~

18    ~~SEC. 105. Section 25751 of the Public Resources Code is~~  
19    ~~amended to read:~~

20    ~~25751. (a) The Renewable Resource Trust Fund is hereby~~  
21    ~~created in the State Treasury.~~

22    ~~(b) The following accounts are hereby established within the~~  
23    ~~Renewable Resource Trust Fund:~~

24    ~~(1) Existing Renewable Resources Account.~~

25    ~~(2) Emerging Renewable Resources Account.~~

26    ~~(3) Renewable Resources Consumer Education Account.~~

27    ~~(c) The money in the fund may be expended, only upon~~  
28    ~~appropriation by the Legislature in the annual Budget Act, for the~~  
29    ~~following purposes:~~

30    ~~(1) The administration of this article by the state.~~

31    ~~(2) The state's expenditures associated with the accounting~~  
32    ~~system established by the commission pursuant to subdivision (b)~~  
33    ~~of Section 399.25 of the Public Utilities Code.~~

34    ~~(d) That portion of revenues collected by electrical corporations~~  
35    ~~for the benefit of in-state operation and development of existing~~  
36    ~~and emerging renewable resource technologies, pursuant to Section~~  
37    ~~399.8 of the Public Utilities Code, shall be transmitted to the~~  
38    ~~commission at least quarterly for deposit in the Renewable~~  
39    ~~Resource Trust Fund pursuant to Section 25740.5. After setting~~  
40    ~~aside in the fund money that may be needed for expenditures~~

~~1 authorized by the annual Budget Act in accordance with  
2 subdivision (c), the Treasurer shall immediately deposit money  
3 received pursuant to this section into the accounts created pursuant  
4 to subdivision (b) in proportions designated by the commission  
5 for the current calendar year. Notwithstanding Section 13340 of  
6 the Government Code, the money in the fund and the accounts  
7 within the fund are hereby continuously appropriated to the  
8 commission without regard to fiscal years for the purposes  
9 enumerated in this chapter.~~

~~10 (e) Upon notification by the commission, the Controller shall  
11 pay all awards of the money in the accounts created pursuant to  
12 subdivision (b) for purposes enumerated in this chapter. The  
13 eligibility of each award shall be determined solely by the  
14 commission based on the procedures it adopts under this chapter.  
15 Based on the eligibility of each award, the commission shall also  
16 establish the need for a multiyear commitment to any particular  
17 award and so advise the Department of Finance. Eligible awards  
18 submitted by the commission to the Controller shall be  
19 accompanied by information specifying the account from which  
20 payment should be made and the amount of each payment; a  
21 summary description of how payment of the award furthers the  
22 purposes enumerated in this chapter; and an accounting of future  
23 costs associated with any award or group of awards known to the  
24 commission to represent a portion of a multiyear funding  
25 commitment.~~

~~26 (f) The commission may transfer funds between accounts for  
27 cashflow purposes, provided that the balance due each account is  
28 restored and the transfer does not adversely affect any of the  
29 accounts.~~

~~30 (g) The Department of Finance shall conduct an independent  
31 audit of the Renewable Resource Trust Fund and its related  
32 accounts annually, and provide an audit report to the Legislature  
33 not later than March 1 of each year for which this article is  
34 operative. The Department of Finance's report shall include  
35 information regarding revenues, payment of awards, reserves held  
36 for future commitments, unencumbered cash balances, and other  
37 matters that the Director of Finance determines may be of  
38 importance to the Legislature.~~

~~39 (b) The Emerging Renewable Resources Account is hereby  
40 established within the Renewable Resources Trust Fund.~~

1 *Notwithstanding Section 13340 of the Government Code, the*  
2 *moneys in the account are hereby continuously appropriated to*  
3 *the commission without regard to fiscal years for the following*  
4 *purposes:*

5 *(1) To close out the award of incentives for emerging*  
6 *technologies in accordance with former Section 25744, as this law*  
7 *existed prior to the enactment of the Budget Act of 2012, for which*  
8 *applications had been approved before the enactment of the Budget*  
9 *Act of 2012.*

10 *(2) To close out consumer education activities in accordance*  
11 *with former Section 25746, as this law existed prior to the*  
12 *enactment of the Budget Act of 2012.*

13 *(3) To fund local government renewable energy planning*  
14 *projects pursuant to Section 25619.*

15 *(c) The Controller shall provide to the commission funds*  
16 *pursuant to the continuous appropriation in, and for purposes*  
17 *specified in, subdivision (b).*

18 *(d) The Controller shall provide to the commission moneys from*  
19 *the fund sufficient to satisfy all contract and grant awards that*  
20 *were made by the commission pursuant to former Sections 25744*  
21 *and 25746, and Chapter 8.8 (commencing with Section 25780),*  
22 *as these laws existed prior to the enactment of the Budget Act of*  
23 *2012.*

24 *SEC. 106. Section 32605 of the Public Resources Code is*  
25 *amended to read:*

26 *32605. The board shall consist of 13 voting members and seven*  
27 *nonvoting members, as follows:*

28 *(a) The 13 voting members of the board shall consist of all of*  
29 *the following:*

30 *(1) One member of the Board of Supervisors of the County of*  
31 *Los Angeles, or his or her designee, who represents the area or a*  
32 *portion thereof contained within the territory of the conservancy,*  
33 *appointed by the Governor.*

34 *(2) Two members of the board of directors of the San Gabriel*  
35 *Valley Council of Governments, one of whom shall be a mayor*  
36 *or city council member of a city bordering along the San Gabriel*  
37 *River, and one of whom shall be a mayor or city council member*  
38 *of a city bordering the San Gabriel Mountains area. One member*  
39 *shall be appointed by a majority of the membership of that board*  
40 *of directors, and one member shall be appointed by the Senate*

1 Committee on Rules from a list of two or more potential members  
2 submitted by the board of directors. *If the San Gabriel Valley*  
3 *Council of Governments fails to provide to the Senate Committee*  
4 *on Rules a list of two or more potential members, at least 30 days*  
5 *prior to the date a current member's term of office expires, the*  
6 *Senate Committee on Rules may appoint a mayor or city council*  
7 *member of a city bordering along the San Gabriel River or the*  
8 *San Gabriel Mountains, or a member of the public who resides*  
9 *within the territory of the conservancy.*

10 (3) Two members of the board of directors of the Gateway Cities  
11 Council of Governments, one of whom shall be the mayor of the  
12 City of Long Beach or a city council member of the City of Long  
13 Beach appointed by the mayor, and one of whom shall be appointed  
14 by the Speaker of the Assembly from a list of two or more potential  
15 members submitted by the executive committee of the board of  
16 directors of the Gateway Cities Council of Governments. The  
17 executive committee shall submit lists of potential members to the  
18 Speaker of the Assembly until an acceptable member is appointed.

19 (4) Two members of the Orange County Division of the League  
20 of California Cities, both of whom shall be a mayor or city council  
21 member of a city bordering along the San Gabriel River or a  
22 tributary thereof. One member shall be appointed by a majority of  
23 the membership of the city selection committee of Orange County,  
24 and one member shall be appointed by the Governor from a list  
25 of two or more potential members submitted by the city selection  
26 committee.

27 (5) One member shall be a representative of a member of the  
28 San Gabriel Valley Water Association appointed by a majority of  
29 the membership of the board of directors of the San Gabriel Valley  
30 Water Association.

31 (6) One member shall be a representative of the Central Basin  
32 Water Association appointed by a majority of the membership of  
33 the board of directors of the Central Basin Water Association.

34 (7) One member shall be a resident of Los Angeles County  
35 appointed by the Governor from a list of potential members  
36 submitted by local, state, and national environmental organizations  
37 that operate within the County of Los Angeles and within the  
38 territory of the conservancy and that have participated in planning  
39 for river restoration or open space, or both, or river preservation.

1 (8) The Secretary of the *Natural* Resources Agency, or his or  
2 her designee.

3 (9) The Secretary for Environmental Protection, or his or her  
4 designee.

5 (10) The Director of Finance, or his or her designee.

6 (b) The seven ex officio, nonvoting members shall consist of  
7 the following officers or an employee of each agency designated  
8 annually by that officer to represent the office or agency:

9 (1) The District Engineer of the United States Army Corps of  
10 Engineers.

11 (2) The Regional Forester for the Pacific Southwest Region of  
12 the United States Forest Service.

13 (3) The Director of the Los Angeles County Department of  
14 Public Works.

15 (4) The Director of the Orange County Public Facility and  
16 Resource Department.

17 (5) A member of the San Gabriel River Watermaster, appointed  
18 by a majority of the members of the San Gabriel River  
19 Watermaster.

20 (6) The Director of Parks and Recreation.

21 (7) The Executive Officer of the Wildlife Conservation Board.

22 *SEC. 107. Section 42474 of the Public Resources Code is*  
23 *amended to read:*

24 42474. (a) Civil liability in an amount of up to two thousand  
25 five hundred dollars (\$2,500) per offense may be administratively  
26 imposed by the ~~board~~ *Department of Resources Recycling and*  
27 *Recovery* for each sale of a covered electronic device for which a  
28 covered electronic waste recycling fee has not been paid pursuant  
29 to Section 42464.

30 (b) A civil penalty in an amount of up to five thousand dollars  
31 (\$5,000) per offense may be imposed by a superior court for each  
32 sale of a covered electronic device for which a covered electronic  
33 waste recycling fee has not been paid pursuant to Section 42464.

34 (c) Civil liability in an amount of up to twenty-five thousand  
35 dollars (\$25,000) may be administratively imposed by the board  
36 against manufacturers for failure to comply with this chapter,  
37 except as otherwise provided in subdivision (a).

38 (d) *Civil liability in an amount of up to twenty-five thousand*  
39 *dollars (\$25,000) per violation may be administratively imposed*  
40 *by the Department of Resources Recycling and Recovery against*

1 a person, including an authorized collector or covered electronic  
2 waste recycler, that makes a false statement or representation in  
3 any document filed, submitted, maintained, or used for purposes  
4 of compliance with this chapter and associated regulations.

5 (e) (1) The Department of Resources Recycling and Recovery  
6 may revoke the approval or deny the renewal application of an  
7 authorized collector or covered electronic waste recycler that  
8 makes a false statement or representation in a document filed,  
9 submitted, maintained, or used for purposes of compliance with  
10 this chapter and the regulations adopted pursuant to this chapter.

11 (2) In addition to the authority specified in paragraph (1), the  
12 Department of Resources Recycling and Recovery may deny an  
13 application for approval or renewal from an authorized collector  
14 or covered electronic waste recycler that, or an individual  
15 identified in the application who, has a history demonstrating a  
16 pattern of operation in conflict with the requirements of this  
17 chapter and the regulations adopted pursuant to this chapter.

18 (3) A person challenging a revocation, denial of application  
19 renewal, or application denial under this chapter, or an approved  
20 covered electronic waste recycler challenging the denial or  
21 adjustment of an electronic waste recovery payment or electronic  
22 waste recycling payment, shall first exhaust all administrative  
23 remedies by filing with the Department of Resources Recycling  
24 and Recovery a timely administrative appeal, in accordance with  
25 the regulations adopted to implement this chapter.

26 SEC. 108. Section 42649.2 of the Public Resources Code is  
27 amended to read:

28 42649.2. (a) On and after July 1, 2012, a business that  
29 generates ~~more than~~ four cubic yards or more of commercial solid  
30 waste per week or is a multifamily residential dwelling of five  
31 units or more shall arrange for recycling services, consistent with  
32 state or local laws or requirements, including a local ordinance or  
33 agreement, applicable to the collection, handling, or recycling of  
34 solid waste, to the extent that these services are offered and  
35 reasonably available from a local service provider.

36 (b) A commercial waste generator shall take at least one of the  
37 following actions:

38 (1) Source separate recyclable materials from solid waste and  
39 subscribe to a basic level of recycling service that includes



1 collection, self-hauling, or other arrangements for the pickup of  
2 the recyclable materials.

3 (2) Subscribe to a recycling service that may include mixed  
4 waste processing that yields diversion results comparable to source  
5 separation.

6 (c) A property owner of a multifamily residential dwelling may  
7 require tenants to source separate their recyclable materials to aid  
8 in compliance with this section.

9 *SEC. 109. Section 71300 of the Public Resources Code is*  
10 *amended to read:*

11 71300. (a) For purposes of this part “office” means the Office  
12 of Education and the Environment of the ~~California Environmental~~  
13 ~~Protection Agency~~ *Department of Resources Recycling and*  
14 *Recovery*, as established pursuant to this section.

15 (b) (1) The Office of Education and the Environment is hereby  
16 *previously established in the California Environmental Protection*  
17 *Agency is hereby established in the Department of Resources*  
18 *Recycling and Recovery. The office shall report to the Secretary*  
19 ~~for Environmental Protection.~~ The office shall dedicate its effort  
20 to implementing the statewide environmental educational program  
21 prescribed pursuant to this part. The office, through staffing and  
22 resources, shall give a high priority to implementing the statewide  
23 environmental education program.

24 (2) *Any reference to the California Environmental Protection*  
25 *Agency in regard to this program shall be deemed a reference to*  
26 *the Department of Resource Recycling and Recovery.*

27 (c) The office, under the direction of the ~~Secretary for~~  
28 ~~Environmental Protection~~ *Department of Resources Recycling and*  
29 *Recovery*, in cooperation with the State Department of Education  
30 and the State Board of Education, shall develop and implement a  
31 unified education strategy on the environment for elementary and  
32 secondary schools in the state. The office shall develop a unified  
33 education strategy to do all of the following:

34 (1) Coordinate instructional resources and strategies for  
35 providing active pupil participation with onsite conservation efforts.

36 (2) Promote service-learning opportunities between schools and  
37 local communities.

38 (3) Assess the impact to participating pupils of the unified  
39 education strategy on pupil achievement and resource conservation.

1     ~~(4) On or before June 30, 2006, the office shall report to the~~  
2     ~~Legislature and the Governor on its progress in developing,~~  
3     ~~implementing, and assessing the unified education strategy.~~

4     (d) The State Department of Education and the State Board of  
5     Education shall develop and implement to the extent feasible, a  
6     teacher training and implementation plan, to guide the  
7     implementation of the unified education strategy, for the education  
8     of pupils, faculty, and administrators on the importance of  
9     integrating environmental concepts and programs in schools  
10    throughout the state. The strategy shall project the phased  
11    implementation of elementary, middle, and high school programs.

12    (e) In implementing this part, the office may hold public  
13    meetings to receive and respond to comments from affected state  
14    agencies, stakeholders, and the public regarding the development  
15    of resources and materials pursuant to this part.

16    (f) In implementing this part, the office shall coordinate with  
17    other agencies and groups with expertise in education and the  
18    environment, including, but not limited to, the California  
19    Environmental Education Interagency Network.

20    (g) Any instructional materials developed pursuant to this part  
21    shall be subject to the requirements of Chapter 1 (commencing  
22    with Section 60000) of Part 33 of Division 4 of Title 2 of the  
23    Education Code, including, but not limited to, reviews for legal  
24    and social compliance before the materials may be used in  
25    elementary or secondary public schools.

26    *SEC. 110. Section 748.5 is added to the Public Utilities Code,*  
27    *to read:*

28    748.5. (a) *Except as provided in subdivision (c), the*  
29    *commission shall require revenues, including any accrued interest,*  
30    *received by an electrical corporation as a result of the direct*  
31    *allocation of greenhouse gas allowances to electric utilities*  
32    *pursuant to subdivision (b) of Section 95890 of Title 17 of the*  
33    *California Code of Regulations to be credited directly to the*  
34    *residential, small business, and emissions-intensive trade-exposed*  
35    *retail customers of the electrical corporation.*

36    (b) *Not later than January 1, 2013, the commission shall require*  
37    *the adoption and implementation of a customer outreach plan for*  
38    *each electrical corporation, including, but not limited to, such*  
39    *measures as notices in bills and through media outlets, for*  
40    *purposes of obtaining the maximum feasible public awareness of*

1 *the crediting of greenhouse gas allowance revenues. Costs*  
2 *associated with the implementation of this plan are subject to*  
3 *recovery in rates pursuant to Section 454.*

4 *(c) The commission may allocate up to 15 percent of the*  
5 *revenues, including any accrued interest, received by an electrical*  
6 *corporation as a result of the direct allocation of greenhouse gas*  
7 *allowances to electrical distribution utilities pursuant to*  
8 *subdivision (b) of Section 95890 of Title 17 of the California Code*  
9 *of Regulations, for clean energy and energy efficiency projects*  
10 *established pursuant to statute that are administered by the*  
11 *electrical corporation and that are not otherwise funded by another*  
12 *funding source.*

13 *SEC. 111. Section 2851 of the Public Utilities Code is amended*  
14 *to read:*

15 2851. (a) In implementing the California Solar Initiative, the  
16 commission shall do all of the following:

17 (1) The commission shall authorize the award of monetary  
18 incentives for up to the first megawatt of alternating current  
19 generated by solar energy systems that meet the eligibility criteria  
20 established by the State Energy Resources Conservation and  
21 Development Commission pursuant to Chapter 8.8 (commencing  
22 with Section 25780) of Division 15 of the Public Resources Code.  
23 The commission shall determine the eligibility of a solar energy  
24 system, as defined in Section 25781 of the Public Resources Code,  
25 to receive monetary incentives until the time the State Energy  
26 Resources Conservation and Development Commission establishes  
27 eligibility criteria pursuant to Section 25782. Monetary incentives  
28 shall not be awarded for solar energy systems that do not meet the  
29 eligibility criteria. The incentive level authorized by the  
30 commission shall decline each year following implementation of  
31 the California Solar Initiative, at a rate of no less than an average  
32 of 7 percent per year, and shall be zero as of December 31, 2016.  
33 The commission shall adopt and publish a schedule of declining  
34 incentive levels no less than 30 days in advance of the first decline  
35 in incentive levels. The commission may develop incentives based  
36 upon the output of electricity from the system, provided those  
37 incentives are consistent with the declining incentive levels of this  
38 paragraph and the incentives apply to only the first megawatt of  
39 electricity generated by the system.

(2) The commission shall adopt a performance-based incentive program so that by January 1, 2008, 100 percent of incentives for solar energy systems of 100 kilowatts or greater and at least 50 percent of incentives for solar energy systems of 30 kilowatts or greater are earned based on the actual electrical output of the solar energy systems. The commission shall encourage, and may require, performance-based incentives for solar energy systems of less than 30 kilowatts. Performance-based incentives shall decline at a rate of no less than an average of 7 percent per year. In developing the performance-based incentives, the commission may:

(A) Apply performance-based incentives only to customer classes designated by the commission.

(B) Design the performance-based incentives so that customers may receive a higher level of incentives than under incentives based on installed electrical capacity.

(C) Develop financing options that help offset the installation costs of the solar energy system, provided that this financing is ultimately repaid in full by the consumer or through the application of the performance-based rebates.

(3) By January 1, 2008, the commission, in consultation with the State Energy Resources Conservation and Development Commission, shall require reasonable and cost-effective energy efficiency improvements in existing buildings as a condition of providing incentives for eligible solar energy systems, with appropriate exemptions or limitations to accommodate the limited financial resources of low-income residential housing.

(4) Notwithstanding subdivision (g) of Section 2827, the commission may develop a time-variant tariff that creates the maximum incentive for ratepayers to install solar energy systems so that the system's peak electricity production coincides with California's peak electricity demands and that ensures that ratepayers receive due value for their contribution to the purchase of solar energy systems and customers with solar energy systems continue to have an incentive to use electricity efficiently. In developing the time-variant tariff, the commission may exclude customers participating in the tariff from the rate cap for residential customers for existing baseline quantities or usage by those customers of up to 130 percent of existing baseline quantities, as required by Section 80110 of the Water Code. Nothing in this

1 paragraph authorizes the commission to require time-variant pricing  
2 for ratepayers without a solar energy system.

3 (b) Notwithstanding subdivision (a), in implementing the  
4 California Solar Initiative, the commission may authorize the award  
5 of monetary incentives for solar thermal and solar water heating  
6 devices, in a total amount up to one hundred million eight hundred  
7 thousand dollars (\$100,800,000).

8 (c) (1) In implementing the California Solar Initiative, the  
9 commission shall not allocate more than fifty million dollars  
10 (\$50,000,000) to research, development, and demonstration that  
11 explores solar technologies and other distributed generation  
12 technologies that employ or could employ solar energy for  
13 generation or storage of electricity or to offset natural gas usage.  
14 Any program that allocates additional moneys to research,  
15 development, and demonstration shall be developed in  
16 collaboration with the Energy Commission to ensure there is no  
17 duplication of efforts, and adopted by the commission through a  
18 rulemaking or other appropriate public proceeding. Any grant  
19 awarded by the commission for research, development, and  
20 demonstration shall be approved by the full commission at a public  
21 meeting. This subdivision does not prohibit the commission from  
22 continuing to allocate moneys to research, development, and  
23 demonstration pursuant to the self-generation incentive program  
24 for distributed generation resources originally established pursuant  
25 to Chapter 329 of the Statutes of 2000, as modified pursuant to  
26 Section 379.6.

27 (2) The Legislature finds and declares that a program that  
28 provides a stable source of monetary incentives for eligible solar  
29 energy systems will encourage private investment sufficient to  
30 make solar technologies cost effective.

31 (3) On or before June 30, 2009, and by June 30th of every year  
32 thereafter, the commission shall submit to the Legislature an  
33 assessment of the success of the California Solar Initiative program.  
34 That assessment shall include the number of residential and  
35 commercial sites that have installed solar thermal devices for which  
36 an award was made pursuant to subdivision (b) and the dollar value  
37 of the award, the number of residential and commercial sites that  
38 have installed solar energy systems, the electrical generating  
39 capacity of the installed solar energy systems, the cost of the  
40 program, total electrical system benefits, including the effect on

1 electrical service rates, environmental benefits, how the program  
2 affects the operation and reliability of the electrical grid, how the  
3 program has affected peak demand for electricity, the progress  
4 made toward reaching the goals of the program, whether the  
5 program is on schedule to meet the program goals, and  
6 recommendations for improving the program to meet its goals. If  
7 the commission allocates additional moneys to research,  
8 development, and demonstration that explores solar technologies  
9 and other distributed generation technologies pursuant to paragraph  
10 (1), the commission shall include in the assessment submitted to  
11 the Legislature, a description of the program, a summary of each  
12 award made or project funded pursuant to the program, including  
13 the intended purposes to be achieved by the particular award or  
14 project, and the results of each award or project.

15 (d) (1) The commission shall not impose any charge upon the  
16 consumption of natural gas, or upon natural gas ratepayers, to fund  
17 the California Solar Initiative.

18 (2) Notwithstanding any other provision of law, any charge  
19 imposed to fund the program adopted and implemented pursuant  
20 to this section shall be imposed upon all customers not participating  
21 in the California Alternate Rates for Energy (CARE) or family  
22 electric rate assistance (FERA) programs, including those  
23 residential customers subject to the rate cap required by Section  
24 80110 of the Water Code for existing baseline quantities or usage  
25 up to 130 percent of existing baseline quantities of electricity.

26 (3) The costs of the program adopted and implemented pursuant  
27 to this section may not be recovered from customers participating  
28 in the California Alternate Rates for Energy or CARE program  
29 established pursuant to Section 739.1, except to the extent that  
30 program costs are recovered out of the nonbypassable system  
31 benefits charge authorized pursuant to Section 399.8.

32 (e) In implementing the California Solar Initiative, the  
33 commission shall ensure that the total cost over the duration of the  
34 program does not exceed three billion five hundred fifty million  
35 eight hundred thousand dollars (\$3,550,800,000). The financial  
36 components of the California Solar Initiative shall consist of the  
37 following:

38 (1) Programs under the supervision of the commission funded  
39 by charges collected from customers of San Diego Gas and Electric  
40 Company, Southern California Edison Company, and Pacific Gas

1 and Electric Company. The total cost over the duration of these  
2 programs shall not exceed two billion three hundred sixty-six  
3 million eight hundred thousand dollars (\$2,366,800,000) and  
4 includes moneys collected directly into a tracking account for  
5 support of the California Solar Initiative ~~and moneys collected~~  
6 ~~into other accounts that are used to further the goals of the~~  
7 ~~California Solar Initiative.~~

8 (2) Programs adopted, implemented, and financed in the amount  
9 of seven hundred eighty-four million dollars (\$784,000,000), by  
10 charges collected by local publicly owned electric utilities pursuant  
11 to Section 387.5. Nothing in this subdivision shall give the  
12 commission power and jurisdiction with respect to a local publicly  
13 owned electric utility or its customers.

14 (3) Programs for the installation of solar energy systems on new  
15 construction, administered by the State Energy Resources  
16 Conservation and Development Commission ~~pursuant to Chapter~~  
17 ~~8.6 (commencing with Section 25740) of Division 15 of the Public~~  
18 ~~Resources Code~~, and funded by ~~nonbypassable~~ charges in the  
19 amount of four hundred million dollars (\$400,000,000), collected  
20 from customers of San Diego Gas and Electric Company, Southern  
21 California Edison Company, and Pacific Gas and Electric Company  
22 ~~pursuant to Article 15 (commencing with Section 399).~~

23 (4) *The changes made to this subdivision by the act adding this*  
24 *paragraph do not authorize the levy of a charge or any increase*  
25 *in the amount collected pursuant to any existing charge, nor do*  
26 *the changes add to, or detract from, the commission's existing*  
27 *authority to levy or increase charges.*

28 SEC. 112. Section 5155 of the Vehicle Code is amended to  
29 read:

30 5155. The design criteria for a specialized license plate are as  
31 follows:

32 (a) ~~The~~ *Except as provided in Section 5161, the* license plate  
33 for a passenger vehicle, commercial vehicle, or trailer shall provide  
34 a space not larger than two inches by three inches to the left of the  
35 numerical series and a space not larger than five-eighths of an inch  
36 in height below the numerical series for a distinctive design, decal,  
37 or descriptive message as authorized by this article. The license  
38 plates shall be issued in sequential numerical order or, pursuant  
39 to Section 5103, in a combination of numbers or letters.

(b) Specialized license plates authorized under this article may be issued for use on a motorcycle. That license plate shall contain a five-digit configuration issued in sequential numerical order or, pursuant to Section 5103, in a combination of numbers or letters. There shall be a space to the left of the numerical series for a distinctive design or decal and the characters shall contrast sharply with the uniform background color. A motorcycle plate containing a full plate graphic design is not authorized.

(c) Specialized license plates may be issued as environmental license plates, as defined in Section 5103.

*SEC. 113. Section 5161 is added to the Vehicle Code, to read:*

*5161. (a) The department, in consultation with the Department of Parks and Recreation, shall design and make available for issuance pursuant to this article special state parks environmental design license plates as described in this section. Notwithstanding Section 5155, the special state parks environmental design license plates shall bear a full-plate graphic design that the department determines, in consultation with the Department of the California Highway Patrol, does not obscure the readability of the license plate depicting a California redwood tree design as an iconic feature of California's state park system, as approved by the Department of Parks and Recreation. The Department of Parks and Recreation may accept and use donated artwork from California artists for purposes of this requirement. Any person described in Section 5101 may, upon payment of the additional fees set forth in subdivision (b), apply for and be issued a set of special state parks environmental design license plates. The special state parks environmental design license plates may be issued as environmental license plates, as defined in Section 5103.*

*(b) In addition to the regular fees for an original registration or renewal of registration, the following additional fees shall be paid for the issuance, renewal, or transfer of the special state parks environmental design license plates authorized pursuant to this section:*

*(1) For the original issuance of the plates, fifty dollars (\$50).*

*(2) For a renewal of registration with the plates, forty dollars (\$40).*

*(3) For transfer of the plates to another vehicle, fifteen dollars (\$15).*



1     (4) For each substitute replacement plate, thirty-five dollars  
2     (\$35).

3     (5) In addition, for the issuance of environmental license plates,  
4     as defined in Section 5103, with a full-plate graphic design  
5     described in subdivision (a), the additional fees prescribed in  
6     Sections 5106 and 5108. The additional fees prescribed in Sections  
7     5106 and 5108 shall be deposited in the Environmental License  
8     Plate Fund.

9     (c) Except as provided in paragraph (5) of subdivision (b), and  
10    after deducting its administrative costs under this section, the  
11    department shall deposit the additional revenue derived from the  
12    issuance, renewal, transfer, and substitution of special  
13    environmental design license plates in the California State Parks  
14    Account, which is hereby created in the Specialized License Plate  
15    Fund. Upon appropriation by the Legislature, the money in the  
16    account shall be allocated by the Controller to the Department of  
17    Parks and Recreation for expenditure for the exclusive trust  
18    purposes of preservation and restoration of California state parks.

19    (d) The Department of Parks and Recreation shall collect and  
20    hold applications for the special state parks environmental license  
21    plates described in this section. The department shall not be  
22    required to make the special state parks environmental license  
23    plates available for issuance pursuant to this section until the  
24    Department of Parks and Recreation has submitted not less than  
25    7,500 applications for the plates to the department.

26    SEC. 114. Section 147.5 is added to the Water Code, to read:

27    147.5. At least 60 days prior to the final approval of the  
28    renewal or extension of a long-term water supply contract between  
29    the department and a state water project contractor, the department  
30    shall present at an informational hearing before the Legislature  
31    the details of the terms and conditions of the contract and how  
32    they serve as a template for the remaining long-term water supply  
33    contracts. This presentation shall be made to the Joint Legislative  
34    Budget Committee and relevant policy and fiscal committees of  
35    both houses, as determined by the Speaker of the Assembly and  
36    the Senate Committee on Rules. The department shall submit a  
37    copy of one long-term contract to the Joint Legislative Budget  
38    Committee no less than 30 days prior to the scheduled hearing.

39    SEC. 115. Section 175.5 of the Water Code is amended to read:

1 175.5. (a) ~~No~~A member of the board shall *not* participate in  
2 any board action pursuant to Article 2 (commencing with Section  
3 13320) of Chapter 5 of Division 7 ~~which involves himself or herself~~  
4 ~~or any waste discharger with which the board member is connected~~  
5 ~~as a director, officer or employee, or in which the board member~~  
6 has a *disqualifying* financial interest in the decision within the  
7 meaning of Section 87103 of the Government Code.

8 (b) ~~No~~A board member shall *not* participate in any proceeding  
9 before any regional board as a consultant or in any other capacity  
10 on behalf of any waste discharger.

11 (c) Upon the request of any person, or on the Attorney General's  
12 own initiative, the Attorney General may file a complaint in the  
13 superior court for the county in which the board has its principal  
14 office alleging that a board member has knowingly violated this  
15 section and the facts upon which the allegation is based and asking  
16 that the member be removed from office. Further proceedings shall  
17 be in accordance as near as may be with rules governing civil  
18 actions. If after trial the court finds that the board member has  
19 knowingly violated this section it shall pronounce judgment that  
20 the member be removed from office.

21 *SEC. 116. Section 11913.1 is added to the Water Code, to read:*

22 11913.1. (a) *It is the intent of the Legislature to appropriate*  
23 *funds sufficient to cover the costs incurred by the department for*  
24 *recreation and fish and wildlife enhancement specified pursuant*  
25 *to Section 11912, subject to legislative review and approval.*

26 (b) *The Davis-Dolwig Account is hereby created in the*  
27 *California Water Resources Development Bond Fund, created*  
28 *pursuant to Section 12935.*

29 (c) *On July 1, 2012, and every July 1 thereafter, the Controller*  
30 *shall transfer seven million five hundred thousand dollars*  
31 *(\$7,500,000) from the General Fund portion of the Harbors and*  
32 *Watercraft Revolving Fund, created pursuant to Section 85 of the*  
33 *Harbors and Navigation Code, to the Davis-Dolwig Account.*  
34 *Notwithstanding Section 13340 of the Government Code, for the*  
35 *purposes of this chapter, seven million five hundred thousand*  
36 *dollars (\$7,500,000) is continuously appropriated, without regard*  
37 *to fiscal years, from the Davis-Dolwig Account to the department*  
38 *for the costs of State Water Resources Development System, as*  
39 *described in Section 12931, facility operations, maintenance, and*  
40 *capital costs attributable to recreation and fish and wildlife*

enhancement as provided for in Section 11914. This subdivision shall be eligible for future adjustment by the Legislature in accordance with an appropriate water and power utility cost index, submitted by the department and approved by the Legislature by statute, that reflects changes in costs incurred or likely to be incurred by the department for operation, maintenance and capital costs of the State Water Resources Development System.

(d) (1) On July 1, 2012, and every July 1 thereafter, the Controller shall transfer two million five hundred thousand dollars (\$2,500,000) from the General Fund portion of the Harbors and Watercraft Revolving Fund to the Davis-Dolwig Account. Notwithstanding Section 13340 of the Government Code, two million five hundred thousand dollars (\$2,500,000) is continuously appropriated, without regard to fiscal years, from the Davis-Dolwig Account to the department for the payment of State Water Resources Development System recreation and fish and wildlife enhancement costs incurred pursuant to this chapter on or before December 31, 2011.

(2) This subdivision shall be inoperative when the Director of Finance certifies that all costs described in paragraph (1) have been paid.

(e) The department shall provide details of the balance and expenditures of the Davis-Dolwig Account as part of the annual Governor's budget process.

(f) Any cost for recreation and fish and wildlife enhancement incurred in connection with the State Water Resources Development System that exceeds the funding provided pursuant to subdivision (c) may be provided upon further appropriation by the Legislature, pursuant to subdivision (c) of Section 75050 of the Public Resources Code.

(g) The funds made available to the department pursuant to subdivisions (c) and (f) shall fulfill the legislative intent of this chapter to provide funds for fish and wildlife enhancements and recreation.

(h) Any obligation incurred on or after July 1, 2012, for recreation and fish and wildlife enhancements separate from available funding in the Davis-Dolwig Account and any additional funding that may be appropriated by the Legislature for this purpose shall be reimbursed by the state only if approved by the Legislature by statute.

(i) Notwithstanding any other law, the Controller may use funds in the Davis-Dolwing Account for cashflow loans to the General Fund as provided in Sections 16310 and 16381 of the Government Code.

(j) Notwithstanding subdivision (c), any amount in the Davis-Dolwig Account in excess of twenty million dollars (\$20,000,000) on June 30 of each year shall be transferred to the Harbors and Watercraft Revolving Fund.

SEC. 117. Section 13201 of the Water Code is amended to read:

13201. (a) There is a regional board for each of the regions described in Section 13200. Each board shall consist of ~~the following nine~~ seven members appointed by the Governor, each of whom shall represent, and act on behalf of, all the people and shall reside or have a principal place of business within the region.

(b) Except as specified in subdivision (c), each member shall be appointed on the basis of his or her demonstrated interest or proven ability in the field of water quality, including water pollution control, water resource management, water use, or water protection. The Governor shall consider appointments from the public and nonpublic sectors. In regard to appointments from the public sector, the Governor shall consider including members from key economic sectors in a given region, such as agriculture, industry, commercial activities, forestry, and fisheries.

(c) At least one member shall be appointed as a public member who is not required to meet the criteria established pursuant to subdivision (b).

~~(1) One person associated with water supply, conservation, and production.~~

~~(2) One person associated with irrigated agriculture.~~

~~(3) One person associated with industrial water use.~~

~~(4) One person associated with municipal government. Upon the next vacancy occurring in this office on or after January 1, 2004, this person shall be a city council member or mayor.~~

~~(5) One person associated with county government. Upon the next vacancy occurring in this office on or after January 1, 2004, this person shall be a county supervisor.~~

~~(6) One person from a responsible nongovernmental organization associated with recreation, fish, or wildlife.~~

1 ~~(7) Three persons not specifically associated with any of the~~  
2 ~~foregoing categories, two of whom shall have special competence~~  
3 ~~in areas related to water quality problems.~~

4 ~~(b)~~

5 (d) All persons appointed to a regional board shall be subject  
6 to Senate confirmation, but shall not be required to appear before  
7 any committee of the Senate for purposes of such confirmation  
8 unless specifically requested to appear by the Senate Committee  
9 on Rules.

10 ~~(e)~~

11 (e) Insofar as practicable, appointments shall be made in such  
12 manner as to result in representation on the board from all parts  
13 of the region.

14 ~~(d) Notwithstanding subdivision (a), if appointments cannot be~~  
15 ~~made pursuant to paragraph (5) of subdivision (a) because of the~~  
16 ~~requirements of Section 13388, those appointments may be made~~  
17 ~~of persons not specifically associated with any category.~~

18 (f) *Insofar as practicable, appointments shall be made in a*  
19 *manner as to result in representation on the board from diverse*  
20 *experiential backgrounds.*

21 (g) *Each member shall be appointed on the basis of his or her*  
22 *ability to attend substantially all meetings of the board and to*  
23 *actively discharge all duties and responsibilities of a member of*  
24 *the board.*

25 (h) *The reduction in the number of members of each regional*  
26 *board required by the act that added this subdivision shall be*  
27 *achieved according to the ordinary expiration of the terms of*  
28 *incumbents and other vacancies. Notwithstanding Section 13202*  
29 *the Governor shall not fill a vacancy on any regional board until*  
30 *the number of members serving on that regional board falls below*  
31 *seven members. When the numbers of members serving on the*  
32 *regional board falls below seven members, the Governor shall*  
33 *appoint or reappoint individuals pursuant to this section.*

34 SEC. 118. *Section 13202 of the Water Code is amended to*  
35 *read:*

36 13202. (a) Each member of a regional board shall be  
37 appointed for a term of four years. Vacancies shall be immediately  
38 filled by the Governor for the unexpired portion of the terms in  
39 which they occur.

(b) *The term of office for members of each regional board shall be staggered and shall expire in accordance with the following schedule:*

(1) *Two members on September 30, 2013, and every four years thereafter.*

(2) *Two members on September 30, 2014, and every four years thereafter.*

(3) *Two members on September 30, 2015, and every four years thereafter.*

(4) *One member on September 30, 2016, and every four years thereafter.*

SEC. 119. *Section 13207 of the Water Code is amended to read:*

13207. (a) ~~No~~A member of a regional board shall *not* participate in any board action pursuant to Article 4 (commencing with Section 13260) of ~~Chapter 4 this chapter~~, or Article 1 (commencing with Section 13300) of Chapter 5, ~~of this division which involves himself or herself or any waste discharger with which he or she is connected as a director, officer or employee, or in which he or she has a disqualifying financial interest in the decision within the meaning of Section 87103 of the Government Code.~~

(b) ~~No~~A board member shall *not* participate in any proceeding before any regional board or the state board as a consultant or in any other capacity on behalf of any waste discharger.

(c) Upon the request of any person, or on the Attorney General's own initiative, the Attorney General may file a complaint in the superior court for the county in which the regional board has its principal office alleging that a board member has knowingly violated this section and the facts upon which the allegation is based and asking that the member be removed from office. Further proceedings shall be in accordance as near as may be with rules governing civil actions. If after trial the court finds that the board member has knowingly violated this section it shall pronounce judgment that the member be removed from office.

SEC. 120. *Section 13860 of the Water Code is amended to read:*

13860. The committee is hereby empowered to create a debt or debts, liability or liabilities, of the State of California, in an aggregate amount of one hundred ~~seventy-five~~ *seventy-two* million

1 *five hundred thousand* dollars ~~(\$175,000,000)~~ (\$172,500,000) in  
2 the manner provided in this chapter. ~~Such~~ This debt or debts,  
3 liability or liabilities, shall be created for the purpose of providing  
4 the fund to be used for the objects and works specified in Section  
5 13861.

6 *SEC. 121. Section 13388 of the Water Code is amended to*  
7 *read:*

8 13388. (a) Notwithstanding any other provision of this  
9 division or Section 175, ~~no~~ and except as provided in subdivision  
10 (b), a person shall *not* be a member of the state board or a regional  
11 board if ~~he~~ that person receives, or has received during the previous  
12 two years, a significant portion of his *or her* income directly or  
13 indirectly from any person subject to waste discharge requirements  
14 or applicants for waste discharge requirements pursuant to this  
15 chapter. ~~This section shall become operative on March 1, 1973.~~

16 (b) (1) A person shall not be disqualified from being a member  
17 of a regional board because that person receives, or has received  
18 during the previous two years, a significant portion of his or her  
19 income directly or indirectly from a person subject to waste  
20 discharge requirements, or an applicant for waste discharge  
21 requirements, that are issued pursuant to this chapter by the state  
22 board or regional board other than the regional board of which  
23 that person is a member.

24 (2) Paragraph (1) shall be implemented only if the United States  
25 Environmental Protection Agency either determines that no  
26 program approval is necessary for that implementation, or  
27 approves of a change in California's National Pollutant Discharge  
28 Elimination System program, to allow the state to administer the  
29 National Pollutant Discharge Elimination System permit program  
30 consistent with paragraph (1).

31 *SEC. 122. Section 17645.40 of the 1992 School Facilities Bond*  
32 *Act (Section 34 of Chapter 552 of the Statutes of 1995) is amended*  
33 *to read:*

34 17645.40. Bonds in the total amount of ~~nine~~ *eight* hundred  
35 *ninety-eight* million *two hundred eleven thousand* dollars  
36 ~~(\$900,000,000)~~ (\$898,211,000), exclusive of refunding bonds, or  
37 so much thereof as is necessary, may be issued and sold to provide  
38 a fund to be used for carrying out the purposes expressed in this  
39 chapter and to be used to reimburse the General Obligation Bond  
40 Expense Revolving Fund pursuant to Section 16724.5 of the

1 Government Code. The bonds, when sold, shall be and constitute  
2 a valid and binding obligation of the state, and the full faith and  
3 credit of the state is hereby pledged for the punctual payment of  
4 both principal of, and interest on, the bonds as the principal and  
5 interest become due and payable.

6 *SEC. 123. Section 17660.40 of the 1990 School Facilities Bond*  
7 *Act (Section 34 of Chapter 552 of the Statutes of 1995) is amended*  
8 *to read:*

9 17660.40. Bonds in the total amount of ~~eight~~ seven hundred  
10 *ninety-seven* million *eight hundred seventy-five thousand* dollars  
11 ~~(\$800,000,000)~~ (\$797,875,000), exclusive of refunding bonds, or  
12 so much thereof as is necessary, may be issued and sold to provide  
13 funds to be used for carrying out the purposes expressed in this  
14 chapter and to be used to reimburse the General Obligation Bond  
15 Expense Revolving Fund pursuant to Section 16724.5 of the  
16 Government Code. The bonds shall, when sold, be and constitute  
17 a valid and binding obligation of the state, and the full faith and  
18 credit of the state is hereby pledged for the punctual payment of  
19 both principal of, and interest on, the bonds as the principal and  
20 interest become due and payable.

21 *SEC. 124. Section 17698.20 of the 1988 School Facilities Bond*  
22 *Act (Section 34 of Chapter 552 of the Statutes of 1995) is amended*  
23 *to read:*

24 17698.20. For the purpose of creating a fund to provide aid to  
25 school districts of the state in accordance with the Leroy F. Greene  
26 State School Building Lease-Purchase Law of 1976 (Chapter-22  
27 ~~12~~ (commencing with Section-~~47700~~) 17000) of Part 10 of *Division*  
28 *1 of Title 1* of the Education Code), the purposes authorized under  
29 Section-~~16955.17~~ 17698.96 *of this act*, and of all acts amendatory  
30 thereof and supplementary thereto, and to provide funds to repay  
31 any money advanced or loaned to the State School Building  
32 Lease-Purchase Fund under any act of the Legislature, together  
33 with interest provided for in that act, and to be used to reimburse  
34 the General Obligation Bond Expense Revolving Fund pursuant  
35 to Section 16724.5 *of the Government Code*, the committee shall  
36 be and is hereby authorized and empowered to create a debt or  
37 debts, liability or liabilities, of the state, in the aggregate amount  
38 of ~~eight~~ seven hundred *ninety-seven* million *seven hundred*  
39 *forty-five thousand* dollars ~~(\$800,000,000)~~ (\$797,745,000), not  
40 including the amount of any refunding bonds issued in accordance



1 with Section ~~16955.15~~ 17698.93 of this act, in the manner provided  
2 herein, but not in excess thereof.

3 *SEC. 125. The sum of ten million dollars (\$10,000,000) shall*  
4 *be transferred from the unexpended balance of bond funds made*  
5 *available to the Department of Parks and Recreation pursuant to*  
6 *subdivision (a) of Section 75063 of the Public Resources Code,*  
7 *and the sum of three million dollars (\$3,000,000) shall be*  
8 *transferred from the unexpended balance of bond funds made*  
9 *available to the Department of Parks and Recreation pursuant to*  
10 *Section 5096.615 of the Public Resources Code, and these moneys*  
11 *shall be deposited into the California State Park Enterprise Fund*  
12 *established pursuant to subdivision (b) of Section 5010.7 of the*  
13 *Public Resources Code, and may be expended, upon appropriation*  
14 *by the Legislature, for the purposes of paragraph (2) of subdivision*  
15 *(c) and subdivision (d) of Section 5010.7 of the Public Resources*  
16 *Code.*

17 *SEC. 126. (a) It is the intent of the Legislature that the State*  
18 *Water Resources Control Board make loans to the Department of*  
19 *Parks and Recreation of up to ten million dollars (\$10,000,000)*  
20 *per year, each fiscal year until June 30, 2016, from the State Water*  
21 *Pollution Control Revolving Fund for eligible projects associated*  
22 *with water, wastewater, and septic systems, and other eligible*  
23 *water-related projects. Further, it is the intent of the Legislature*  
24 *the Department of Parks and Recreation comply with all*  
25 *requirements for loan eligibility and repayment.*

26 *(b) (1) The State Water Resources Control Board shall make*  
27 *any necessary changes to its policy for implementing the Clean*  
28 *Water State Revolving Fund for Construction of Wastewater*  
29 *Treatment Facilities to ensure that the funds described in*  
30 *subdivision (a) are available to the Department of Parks and*  
31 *Recreation within 12 months from the effective date of this section,*  
32 *assuming all necessary applications and other loan requirements*  
33 *are met. Those changes shall include the determination that the*  
34 *Department of Parks and Recreation shall be the fund guarantor*  
35 *and responsible for repayment of the loans from the fund provided*  
36 *pursuant to subdivision (a).*

37 *(2) Any policies that are adopted or revised pursuant to this*  
38 *subdivision shall not be subject to the requirements of Chapter*  
39 *3.5 (commencing with Section 11340) of Part 1 of Division 3 of*  
40 *the Government Code.*

1     SEC. 127. (a) *The Controller shall transfer the sum of*  
2 *twenty-one million dollars (\$21,000,000) on July 1, 2012, to the*  
3 *Department of Parks and Recreation Fund from moneys in the*  
4 *Motor Vehicle Fuel Account in the State Transportation Fund that*  
5 *would otherwise be transferred into the Off-Highway Vehicle Trust*  
6 *Fund pursuant to Section 8352.6 of the Revenue and Taxation*  
7 *Code. Moneys received from off-highway vehicle registration fees*  
8 *shall not be impacted by this section.*

9     (b) *It is the intent of the Legislature that the Off-Highway*  
10 *Vehicle Trust Fund appropriations are not affected by the transfer*  
11 *in subdivision (a).*

12     SEC. 128. *The sum of one hundred thirty-nine thousand dollars*  
13 *(\$139,000) is hereby appropriated from the Public Utilities*  
14 *Reimbursement Account to the Office of Environmental Health*  
15 *Hazard Assessment for additional staffing to identify constituents*  
16 *of biomethane injected into a common carrier pipeline that are*  
17 *reasonably anticipated to be hazardous to human health and to*  
18 *determine inhalation standards for those identified constituents.*

19     SEC. 129. *The sum of one thousand dollars (\$1,000) for the*  
20 *State Parks and Recreation Fund is hereby appropriated to the*  
21 *Department of Parks and Recreation for administrative costs.*

22     SEC. 130. *No reimbursement is required by this act pursuant*  
23 *to Section 6 of Article XIII B of the California Constitution for*  
24 *certain costs that may be incurred by a local agency or school*  
25 *district because, in that regard, this act creates a new crime or*  
26 *infraction, eliminates a crime or infraction, or changes the penalty*  
27 *for a crime or infraction, within the meaning of Section 17556 of*  
28 *the Government Code, or changes the definition of a crime within*  
29 *the meaning of Section 6 of Article XIII B of the California*  
30 *Constitution.*

31     *However, if the Commission on State Mandates determines that*  
32 *this act contains other costs mandated by the state, reimbursement*  
33 *to local agencies and school districts for those costs shall be made*  
34 *pursuant to Part 7 (commencing with Section 17500) of Division*  
35 *4 of Title 2 of the Government Code.*

36     SEC. 131. *This act is a bill providing for appropriations related*  
37 *to the Budget Bill within the meaning of subdivision (e) of Section*  
38 *12 of Article IV of the California Constitution, has been identified*  
39 *as related to the budget in the Budget Bill, and shall take effect*  
40 *immediately.*

1     ~~SECTION 1. It is the intent of the Legislature to enact statutory~~  
2     ~~changes relating to the Budget Act of 2012.~~

O